

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,) File No. 21-cr-108
Plaintiff,) (PAM/TNL)
v.)
Tou Thao(2),) Courtroom 7D
J. Alexander Kueng(3), and) St. Paul, Minnesota
Thomas Kiernan Lane(4),) Wednesday, January 26, 2022
Defendants.) 9:28 a.m.

BEFORE THE HONORABLE PAUL A. MAGNUSON
UNITED STATES DISTRICT COURT SENIOR JUDGE

(JURY TRIAL PROCEEDINGS - VOLUME V)

Proceedings recorded by mechanical stenography;
transcript produced by computer.

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
BY: ALLEN A. SLAUGHTER, JR.
LEEANN K. BELL
MANDA M. SERTICH
300 South 4th Street, #600
Minneapolis, MN 55415

DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
BY: SAMANTHA TREPEL
150 M Street NE
Washington, D.C. 20530

For Defendant ROBERT M. PAULE, PA
Tou Thao: BY: ROBERT M. PAULE
920 2nd Avenue South, #975
Minneapolis, MN 55402

PAULE LAW PLLC
BY: NATALIE PAULE
5100 West 36th Street
P.O. Box 16589
Minneapolis, MN 55416

For Defendant LAW OFFICE OF THOMAS C. PLUNKETT
J. Alexander Kueng: BY: THOMAS C. PLUNKETT
101 East 5th Street, #1500
St. Paul, MN 55101

For Defendant EARL GRAY DEFENSE
Thomas Kiernan Lane: BY: EARL P. GRAY
332 Minnesota Street, #W1610
St Paul, MN 55101

Court Reporter: RENEE A. ROGGE, RMR-CRR
United States District Courthouse
300 South 4th Street, Box 1005
Minneapolis, MN 55415

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P R O C E E D I N G S

IN OPEN COURT

(JURY NOT PRESENT)

(Defendants present)

THE COURT: Good morning, everyone.

Mr. Paule, you've got something you wanted to bring to our attention?

MR. ROBERT PAULE: Yes, Your Honor, two matters.

One is first I would just like to note that I would request an exception from the sequestration order with regard to my client's wife. She has watched some of the testimony. I have her listed on my witness list as a potential character witness. She would be doing nothing that would be fact related, so I would ask for an exception as to that.

THE COURT: Same exception is granted.

MR. ROBERT PAULE: Thank you.

MS. BELL: Your Honor, can we make a record on that, please?

THE COURT: No. You objected.

MR. ROBERT PAULE: Thank you.

The second thing I would just like to put on the record is that I would note yesterday during both the fact witnesses who testified, both Chris Martin and Charles McMillian were asked questions that elicited an emotional

1 response.

2 It's my perspective that that is in violation of
3 our motion in limine that was granted by the court and has
4 happened on two occasions. Both times, if memory serves,
5 the court sustained the objection and struck the questions
6 from the record. But at least from my perspective, I'm
7 starting to see a pattern develop.

8 Thank you.

9 THE COURT: Well, I'm going to deny that, counsel.
10 I think that if there was any emotional response, it
11 diffused very, very quickly, and so I don't think that is
12 applicable.

13 Okay. Anything else?

14 MS. BELL: Judge, one additional item.

15 THE COURT: Take your mask off because I just
16 can't understand you.

17 MS. BELL: I'm sorry, judge. I'll get closer to
18 the microphone also.

19 Government's Exhibit 5 is the body camera for
20 Officer Lane. In the format that we admitted it, there is a
21 portion of that exhibit when Mr. Floyd is in the ambulance
22 being cared for by the paramedics. During that time they
23 cut off his clothing. And the government did not anticipate
24 playing the portion of that video in public here where the
25 clothing was not fully covering.

1 And so Mr. Gray has indicated that he wants to
2 play that portion in public and so we have substituted, with
3 consent of defense counsel, Government's Exhibit 5 for a
4 version that has blurred the pertinent area on the original
5 exhibit. And we would ask the court's permission to
6 substitute the Exhibit 5 that was admitted for the copy that
7 has the blurring.

8 THE COURT: Okay. I'll grant that request.

9 MS. BELL: Thank you, Your Honor.

10 THE COURT: I actually had viewed that exhibit and
11 I didn't really see what you are suggesting, but that's
12 fine. Rather than take a chance on --

13 MS. BELL: That's right.

14 THE COURT: -- let's go with your version here
15 now, the blurred version.

16 Okay. Anything else before we get our jury? With
17 that, we will call for the jury.

18 (9:33 a.m.)

19 **IN OPEN COURT**

20 **(JURY PRESENT)**

21 THE COURT: You may be seated.

22 Good morning, members of the jury, and welcome
23 back.

24 Do you want to call your next witness, please.

25 MS. SERTICH: Thank you, Your Honor. The

1 government calls Derek Smith.

2 THE COURT: Mr. Smith, if you'd stop there and
3 raise your right hand, please.

4 DEREK SMITH,
5 called on behalf of the government, was duly sworn, was
6 examined and testified as follows:

7 THE COURT: If you'd take the stand, please.
8 Remove your mask and slide up close to the microphone so you
9 can be heard.

10 THE WITNESS: All right.

11 THE COURT: And, with that, if you'd state your
12 name and particularly how do you spell Derek.

13 THE WITNESS: My name is Derek Smith, D-E-R-E-K,
14 Smith traditional spelling.

15 THE COURT: Okay. Proceed, counsel.

16 MS. SERTICH: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. SERTICH:

19 Q. And good morning, Mr. Smith. Where are you employed?

20 A. Hennepin Healthcare, HCMC, whatever you want to call it.

21 Q. What is your job at HCMC?

22 A. Paramedic.

23 Q. And in Minneapolis, is a paramedic someone who performs
24 emergency care and lifesaving aid in response to calls
25 throughout the city?

1 A. Yes.

2 Q. How long have you been a paramedic with Hennepin EMS?

3 A. Going on five years.

4 Q. Have you worked anywhere else as a paramedic?

5 A. I did a training program in Georgia, [indiscernible]
6 County.

7 COURT REPORTER: What county?

8 THE WITNESS: Gwinnett County, Georgia.

9 BY MS. SERTICH:

10 Q. Do you recall receiving a dispatch call to Cup Foods the
11 evening of May 25th, 2020?

12 A. Yes.

13 Q. Where were you when you got that call?

14 A. HCMC.

15 Q. Is that in downtown Minneapolis?

16 A. Yes.

17 Q. Do you know about how far that is from Cup Foods?

18 A. Couple miles, two, three, maybe.

19 Q. I'm showing you what's been previously admitted as
20 Government Exhibit 109. Do you recognize that document?

21 A. Yes.

22 Q. Can you tell the jury what that is.

23 A. It's a patient care report.

24 Q. And is that a patient care report for the call to Cup
25 Foods on May 25th of 2020?

1 A. It appears to be.

2 Q. Did you enter the information into this form?

3 A. Yes.

4 Q. I'm going to go down to page 4 of this report. And we
5 see a section here called Times. Can you tell the jury what
6 time you were dispatched to this call.

7 A. Dispatch time is 20:20:48.

8 Q. And then by what time were you en route to Cup Foods?

9 A. En route 20:21:07.

10 Q. So less than 20 seconds later?

11 A. Yeah.

12 Q. And do you recall what you learned from dispatch about
13 the call?

14 A. It was Code 2 for mouth injury, if I recall correctly.

15 Q. And what does "Code 2" mean?

16 A. Code 2 is a nonemergent request for our services. That
17 means no lights and sirens. Code 3 would be lights, sirens,
18 get there with due regard.

19 Q. And was that call updated to a Code 3?

20 A. Yes.

21 Q. Do you remember about how long after you got the initial
22 call?

23 A. A few minutes, I believe.

24 Q. Was a reason provided for that upgrade to a Code 3?

25 A. At that time, no.

1 Q. And is that unusual, not knowing the reason for an
2 upgrade to Code 3?

3 A. Yes. In my opinion, I should be told why there's a
4 change in status.

5 Q. So then when you get to the Code 3, you testified that
6 means you turn on the lights and sirens and get there as
7 quickly as you safely can?

8 A. Yep.

9 Q. Were you working with a partner that day?

10 A. Yes.

11 Q. Who is that?

12 A. My partner was Seth Bravinder.

13 Q. So I'm going to look at the same part of your report
14 here. What time did you arrive on the scene?

15 A. At scene 20:27:19.

16 Q. So if we compare that back to your dispatch time, maybe
17 about six and a half minutes from dispatch?

18 A. Approximately, yes.

19 Q. Is part of your job responding to scenes where the MPD
20 has already responded?

21 A. Repeat that, please.

22 Q. Is part of your job responding to scenes where the
23 Minneapolis Police Department has already responded?

24 A. Sometimes, yes.

25 Q. And sometimes is the patient someone who is in the MPD

1 custody?

2 A. Sometimes.

3 Q. And usually how does that handoff work when you arrive
4 on scene?

5 A. Generally speaking, an officer will greet you and kind
6 of give you the quick rundown of what's going on, maybe
7 provide you a license, name, date of birth, something, and
8 then the reason for the request for medical aid.

9 Q. Can you explain for the jury what a Code 4 is.

10 A. Code 4 is something we'll express meaning the scene is
11 safe. It's generally done by a police department. For
12 instance, if there's a shooting or something, we're not
13 going to go in until it's been Code 4'd, meaning it's safe
14 for us to enter and provide patient care.

15 Q. And if you are waiting to get that Code 4 on a call,
16 what do you usually do?

17 A. We'll stage in an area we feel safe a couple blocks
18 away, whatever it is.

19 Q. Were you ever asked to stage a couple blocks away in
20 this case?

21 A. I don't recall being told to stage.

22 Q. When you arrived at 38th Street and Chicago in May of
23 2020, did you assess the patient's condition?

24 A. Yes.

25 Q. What did you do to assess the patient's condition?

1 A. To assess the patient's condition, I walked up to the
2 individual. I was looking for how well his skin was
3 perfusing, if he had any chest rise and fall, if the patient
4 was mentating, was able to look at me, was aware of what's
5 going on with me. I would check his pupils and a pulse upon
6 arrival because I did not see any chest rise and fall and I
7 did not see him tracking or appear to be mentating.

8 Q. So for purposes of identifying yourself, I'm going to
9 show you a brief clip from a video that's already been
10 admitted into evidence as Government Exhibit 20. This is an
11 video, for the record, taken by Alyssa Funari.

12 (Video recording played)

13 Q. Mr. Smith, with the understanding it's not the easiest
14 to see through people there, are you the paramedic who was
15 wearing the hat that bent down to take Mr. Floyd's pulse?

16 A. Yes.

17 Q. Okay. And so you mentioned that taking his pulse was
18 one of the assessments you did. Did you find a pulse?

19 A. I did not.

20 Q. You also mentioned that you would check the patient's
21 pupils. Is that what you were doing when you shined the
22 flashlight in the eyes?

23 A. Yes.

24 Q. What did you observe about the patient's pupils?

25 A. They were large.

1 Q. What does that mean to you?

2 A. They were large pupils. They indicate the patient was
3 probably deceased.

4 Q. You also indicated that one of the things you did to
5 assess the patient was to see if his chest was rising and
6 falling; is that right?

7 A. That's correct.

8 Q. What did you observe in that regard?

9 A. His chest was not rising and falling.

10 Q. And then I think the other thing you said you checked
11 was whether the patient is mentating. Can you explain what
12 that means and what you observed with this patient.

13 A. Generally, you walk into a room people are, you know,
14 going to look at you and make eye contact or at least have
15 some sort of mentation that your presence is there. In this
16 instance the individual was just listless, staring off,
17 didn't appear to be mentating.

18 Q. If someone is not breathing and doesn't have a pulse, to
19 you is that called cardiac arrest?

20 A. Not breathing, no pulse, cardiac arrest, that's fair,
21 yes.

22 Q. After that, did you talk to your partner about moving
23 Mr. Floyd away from the scene?

24 A. Yes.

25 Q. What did you say to him?

1 A. I said, "I think he's dead and I'd like to provide
2 patient care away from the scene and load him and go."

3 Q. And did you have a number of reasons for moving
4 Mr. Floyd from the scene for care?

5 A. Yes.

6 Q. Can you explain those for the jury.

7 A. Reasons I moved? There was a large crowd. I wasn't
8 quite sure what was going on. There seemed to be some
9 elevated tones, and I was just concerned it may further the
10 situation.

11 Working a cardiac arrest, I was trying to --
12 knowing I was going to have to work a cardiac arrest, I
13 wanted to respect the dignity of this patient. Oftentimes
14 you get them declothed, naked, and some of the things we got
15 to do are pretty grotesque to laypeople.

16 All my equipment was in the rig. It's a
17 controlled environment. There's better lighting. There's
18 no bugs, wind, outside distractions. It's just faster to
19 bring the patient to all my stuff rather than trying to get
20 all the stuff out of the truck and work in the middle of the
21 street.

22 Q. You mentioned some -- a crowd that had elevated tones,
23 that's the way you put it?

24 A. Yeah.

25 Q. Could you hear what those people were saying?

1 A. At the time I don't recall what they were saying. It
2 just -- yeah, at the time I don't recall specifically what
3 was said.

4 Q. And I think you referred to this situation where you
5 relocate with a patient as a load and go. Is that what you
6 said?

7 A. Yes.

8 Q. Now, after performing this initial assessment of
9 Mr. Floyd, did you believe you had adequate information
10 about this patient upon arrival at the scene?

11 A. Repeat that, please?

12 Q. Did you believe you had adequate information about this
13 patient upon arrival at the scene?

14 A. Upon arrival at the scene, I had no information other
15 than it went from Code 2 mouth injury to Code 3. To me,
16 that -- more information could have been provided.

17 Q. Is there anything you could have done in the ambulance
18 on the way to the scene if you'd known you were responding
19 to a cardiac arrest?

20 MR. PLUNKETT: Objection. Speculation.

21 THE COURT: Sustained.

22 BY MS. SERTICH:

23 Q. Mr. Smith, you've been a paramedic for five years?

24 A. Approximately, going on, yes.

25 Q. Going on five years. And in the course of your work, do

1 you get called to cardiac arrests where you know that that's
2 what you are responding to?

3 A. Yes, sometimes.

4 Q. And in that situation are there steps that you take in
5 the back of the ambulance to prepare to respond to that
6 scene?

7 MR. PLUNKETT: Objection. Relevance.

8 THE COURT: Sustained.

9 BY MS. SERTICH:

10 Q. You mentioned that you were outside of the rig assessing
11 the patient, and so getting him back in the rig would be
12 useful because you didn't have any of your equipment with
13 you; is that right?

14 A. Repeat that, please.

15 Q. Of course. You testified that one of the reasons you
16 wanted to get Mr. Floyd back in the ambulance was because
17 your equipment was in the ambulance, right?

18 A. Correct.

19 Q. Could you have had that equipment ready?

20 MR. PLUNKETT: Objection. Speculation and
21 relevance. And I'm going to ask for a direction to move on.

22 THE COURT: Again, it is speculation and I do
23 sustain.

24 MS. SERTICH: Your Honor, could I have a quick
25 sidebar?

1 THE COURT: Okay.

2 **(At sidebar)**

3 MS. SERTICH: Your Honor, can you hear me?

4 THE COURT: Yes.

5 MS. SERTICH: Thank you, Your Honor. Your Honor,
6 I think I've made an appropriate foundation for Mr. Smith to
7 testify about what he would do on a call to a cardiac
8 arrest. I don't think it's speculative for him to say that,
9 having responded to calls like this for almost five years
10 now.

11 MR. PLUNKETT: Tom Plunkett speaking, Your Honor.

12 It's -- first of all, it's not relevant to the
13 case. You're asking to essentially say that if the officers
14 had done a better job of giving information to their
15 dispatcher, that it would have, you know, made all the
16 difference in the world.

17 I think I had a pretrial motion that specifically
18 looked at not allowing witnesses to speculate about, you
19 know, what they could have done differently. I think it
20 violates the pretrial order.

21 And also it's just not relevant. It's speculating
22 about other situations that are not here.

23 THE COURT: The testimony is that the information
24 was not conveyed. I think that's the end of it. The rest
25 of it becomes speculative and not relevant to this

1 proceeding and does violate the pretrial order as well.

2 Thank you.

3 **(In open court)**

4 BY MS. SERTICH:

5 Q. Mr. Smith, did one of the officers get in the ambulance
6 with you?

7 A. Yes.

8 Q. Sitting here today, do you know who that officer was?

9 A. I do today, yes.

10 Q. Okay. And is that Mr. Lane?

11 A. That's my understanding.

12 Q. Okay. You didn't know him at the time?

13 A. No.

14 Q. And did you, along with your partner and the officers,
15 load Mr. Floyd into the ambulance?

16 A. Yes.

17 Q. Did Mr. Lane ask you if he should stay in the ambulance?

18 A. Yes.

19 Q. How did you respond?

20 A. "You should stay in the ambulance," I believe. "Yes,
21 stay."

22 Q. And why did you say that?

23 A. I was going to need help.

24 Q. Okay. Was your equipment ready to treat a cardiac
25 arrest?

1 A. Ready to -- no.

2 Q. And so what did you have to do to prepare for that?

3 A. I had to get it out and prep the patient, and update
4 dispatch and fire of the change in events and where to meet
5 us and that I was going to need assistance.

6 Q. Okay. So let's walk through that a little bit. In
7 order to prepare the patient, did you have to cut off his
8 clothing?

9 A. Yes.

10 Q. Did you have to remove handcuffs?

11 A. Yes.

12 Q. And this might seem obvious to you, but why did you take
13 these steps?

14 A. To better serve the patient.

15 Q. Would you be able to perform the actions you needed to
16 perform for a cardiac arrest with Mr. Floyd in handcuffs?

17 A. Not as well.

18 Q. Generally speaking, is it important for you to gather
19 information about what happened to a patient to lead to
20 their circumstances?

21 A. Yeah.

22 Q. And why is that?

23 A. It may provide further information to better treat the
24 individual.

25 Q. Did you ask Mr. Lane about what happened?

1 A. Briefly, yes.

2 Q. In his response did Mr. Lane tell you how long Mr. Floyd
3 had been in that prone restraint position before you arrived
4 on the scene?

5 A. I don't recall being told the duration.

6 Q. Did Mr. Lane tell you the officers had not been able to
7 find a pulse for minutes?

8 A. I don't recall that.

9 Q. Did Mr. Lane tell you Mr. Floyd had been nonresponsive
10 for even longer than that?

11 A. I don't recall that.

12 Q. I'm going to show you what's been admitted as
13 Government's Exhibit 5, which is from Officer Lane's
14 body-worn camera, and this is a clip that begins at
15 20:29:10.

16 (Video recording played)

17 Q. Mr. Smith, is that clip consistent with your
18 recollection of the report that Mr. Lane provided to you
19 about what happened before your arrival on the scene?

20 A. Yes.

21 Q. And then we saw at the end you instructed Mr. Lane to
22 begin CPR?

23 A. That's correct.

24 Q. And he did so?

25 A. Yep. Yep.

1 Q. Did he eventually do other things that you asked, like
2 pump an oxygen bag and things like that?

3 A. I don't recall everything that he had to do. I just
4 remember telling him to start CPR.

5 Q. I think I also heard you say in that clip that you
6 wanted a request for backup from the Minneapolis Fire
7 Department; is that right?

8 A. That's correct.

9 Q. Did you begin to monitor Mr. Floyd's heart in the
10 ambulance with a cardiac monitor?

11 A. Yes.

12 Q. What, if anything, was detected at first?

13 A. At first he was in asystole.

14 Q. And just for the jurors here, is asystole like a
15 flatline heart rate?

16 A. Yes.

17 Q. And does that mean that there's no electrical pulse in
18 the heart?

19 A. Correct.

20 Q. After that, did the heart rate change to something
21 called pulseless electrical activity?

22 A. At some point it did, yes.

23 Q. Do you sometimes call that PEA?

24 A. Correct.

25 Q. And is that an electrical activity that still has no

1 pulsing?

2 A. Yes. There's electrical activity, but the heart isn't
3 physically pumping.

4 Q. Are asystole and PEA heart rhythms that you as a
5 paramedic can shock to attempt to revive a patient?

6 A. No.

7 Q. Did your partner, as you hoped, drive the ambulance a
8 few blocks away to continue Mr. Floyd's treatment?

9 A. Sorry. Repeat that.

10 Q. Sure. Did your partner drive the ambulance a few blocks
11 away to continue Mr. Floyd's treatment?

12 A. Yes.

13 Q. And when you stopped, did your partner get in the back
14 to assist with treatment?

15 A. Yes.

16 Q. Do you have protocols that you follow in treating
17 someone who is in cardiac arrest?

18 A. Yes.

19 Q. And if I show you an image, will you be able to describe
20 for the jury some of the treatment provided to Mr. Floyd as
21 seen in the image?

22 A. Yes.

23 Q. I'm going to show you an image from Government's
24 Exhibit 5, which is again Mr. Lane's body-worn camera. And
25 does this image show some of the medical care, as part of

1 those protocols, provided to Mr. Floyd in the ambulance?

2 A. Yes.

3 Q. Can you tell the jury what you see being done here.

4 A. We've provided an airway. We've placed on some
5 monitoring equipment, a bag valve. There's a filter on
6 there with all the COVID stuff going on.

7 Q. And can you just touch on the screen and show the jury
8 what you are talking about.

9 A. Actually touch it?

10 Q. Right there, yep.

11 A. So there's an airway (indicating). There's a bag valve
12 mask (indicating); helps breathe. This -- whoops. This
13 thing here (indicating) is doing chest compressions. This
14 here (indicating) can monitor, with this machine over here
15 (indicating) in the corner, the heart rhythm. I'm trying to
16 do an IV here. This here (indicating) is some cabling to go
17 to this machine back here (indicating) again. It confirms
18 that this here airway (indicating) is placed and then I can
19 monitor his CO2 output. And then there's an oxygen tube
20 placed. Kind of the nitty-gritty of what's going on here.

21 Q. Okay. So is that airway device sometimes called an
22 i-gel?

23 A. Yeah, that down there (indicating) is an i-gel tube.

24 Q. And does that help get oxygen into a person's body?

25 A. Yeah, it helps provide -- keep the airway open so you

1 can use this bag valve mask to push oxygen into the lungs.

2 Q. Do you remember who placed the airway device in?

3 A. My partner.

4 Q. And then you referred to the device that is doing
5 compressions. Is that sometimes called a LUCAS machine?

6 A. Yes.

7 Q. And then you said that you were administering some
8 medication there, right?

9 A. I was attempting an IV.

10 Q. Okay.

11 A. Yep.

12 Q. Okay. And what sort of medications do you put in the IV
13 when someone is in cardiac arrest?

14 A. Epinephrine is one you can provide. Sodium bicarb is
15 another. There's a few others.

16 Q. What does epinephrine do?

17 A. Essentially adrenaline and -- just hope to kickstart the
18 heart, is my understanding. You'd have to take it up with a
19 cardiologist, obviously, to get more of a cellular level of
20 all that.

21 Q. All right. And how about sodium bicarbonate, what does
22 that do?

23 A. It's an attempt to reverse any potential acidosis, get
24 your PH levels back to where they're supposed to be.

25 Q. Did Minneapolis firefighters eventually join you in the

1 ambulance?

2 A. Yes.

3 Q. Did Mr. Lane leave the ambulance when the firefighters
4 arrived?

5 A. Yes.

6 Q. After having taken all of these steps that you just
7 described in your protocol to address cardiac arrest, did
8 you reach a point where you'd taken all the steps that you
9 could take in the ambulance?

10 A. I reached a point where I thought it was manageable to
11 start transport.

12 Q. Okay. And did you transport to the hospital at that
13 point?

14 A. Yes.

15 Q. On the way to the hospital, did you continue to monitor
16 Mr. Floyd's heart?

17 A. Yes.

18 Q. And to do that, would you have to stop the LUCAS device
19 periodically to check if he had an independent heart rhythm?

20 A. Yes.

21 Q. At some point during the drive to the hospital, did you
22 detect a possible rhythm to Mr. Floyd's heart?

23 A. Yes.

24 Q. What did you do?

25 A. It's a different algorithm. It's a shockable rhythm, so

1 I elected to shock it, and I did.

2 Q. Was there any improvement after you shocked Mr. Floyd's
3 heart?

4 A. No.

5 Q. What did you do when you arrived at the hospital?

6 A. We brought the patient into the stabilization room, and
7 I provided a report to the nurse and the hospital staff that
8 was awaiting our arrival.

9 Q. Mr. Smith, can you explain for the jury what shocking
10 the heart is.

11 A. It's defibrillation. Those pads I pointed at can
12 provide, through that little machine that was in the corner,
13 150 joules of electricity, and hopefully to reset the heart
14 rhythm and get all that electrical stuff going again so it
15 can pump and perfuse and work like it's supposed to.

16 Q. But that was not successful in this case, correct?

17 A. Correct.

18 MS. SERTICH: Nothing further on direct, Your
19 Honor.

20 THE COURT: Okay. Thank you very much.

21 MR. PLUNKETT: Go ahead.

22 THE COURT: Mr. Gray.

23 CROSS-EXAMINATION

24 BY MR. GRAY:

25 Q. Good morning, Mr. Smith.

1 A. Hello.

2 Q. My name is Earl Gray. I'm the lawyer for Tom Lane, the
3 officer that was in the ER.

4 What do you call them? Do you call them trucks or
5 ambulances? What do you call them?

6 A. The ambulance.

7 Q. Okay. He was the one in the ambulance with you.

8 A. Okay.

9 Q. Do you recognize him at all in the courtroom?

10 A. This -- hi.

11 Q. The tall guy?

12 A. All right.

13 Q. When you received this call, you immediately went out to
14 the area, right, to where the incident was at? In other
15 words, you get an emergency call, you get in your ER truck
16 or van or ambulance, and you drive there, correct?

17 A. Yes.

18 Q. And in this situation at one point in time a Code 2 went
19 up to Code 3, which means lights and siren, correct?

20 A. At some point we were Code 2 and were upgraded to Code 3
21 to respond lights and sirens, yes.

22 Q. Okay. And when you arrived at the scene, you noticed a
23 crowd there, correct?

24 A. There was a crowd upon arrival, yes.

25 Q. And when you got out of the ambulance with your partner,

1 you told the police officers that you were going to take
2 over, correct, that's what you do?

3 A. That is not correct.

4 Q. What is correct? What did you tell them? Did you tell
5 them that you were going to handle it now? Was there some
6 language -- I could pull it up on the recording, but it's
7 not that -- did you get involved by saying you were going to
8 take over?

9 A. I did not verbally say, "I'm taking over."

10 Q. What did you say?

11 A. I'd have to watch the film. I don't recall saying much
12 of anything at the arrival.

13 Q. Okay.

14 A. I was looking for --

15 Q. You did -- go ahead.

16 A. No, you go ahead.

17 Q. Well, in any event, the first thing you did was check
18 his carotid artery, is that right, one of the first things?

19 A. We've discussed that, yes, I checked the pulse and
20 assess the patient and --

21 Q. In order to do that, did you have to get Derek Chauvin
22 off of his neck?

23 A. There was enough room for me to check his carotid pulse
24 with Chauvin --

25 Q. His -- I'm sorry.

1 A. -- in his position.

2 Q. His knee was still on his neck?

3 A. Look at the film to specifics where his knee was.

4 Q. Okay. I think we will do that.

5 MR. GRAY: Your Honor, could we play Exhibit 5,
6 the whole exhibit, starting when the ambulance gets there?
7 That would be 20:27:02.

8 MS. BELL: May we have a minute? What number is
9 that?

10 MR. GRAY: Exhibit 5 is the body camera of Lane.
11 About 8:27:22.

12 MS. BELL: Close to there?

13 MR. GRAY: Yes, when they arrived, when you see
14 the lights and siren on. And how do you stop it? Like
15 this?

16 (Counsel confer)

17 MR. GRAY: Could we go to 8:27:22, please, and
18 then start the camera?

19 MS. BELL: That's the closest -- Mr. Gray, that's
20 the closest we can get.

21 MR. GRAY: Well, then can you start the camera?

22 (Video recording played)

23 MR. GRAY: Can you stop it there, please?

24 BY MR. GRAY:

25 Q. Did you see yourself in that picture, sir, with the

1 brown uniform?

2 A. Yes.

3 Q. And what were you doing when you were at the scene at
4 that time?

5 A. Again, I was assessing the patient, checking pupils,
6 looking for chest rise and fall.

7 Q. Okay.

8 MR. GRAY: Can you start it up again?

9 (Video recording played during questioning)

10 BY MR. GRAY:

11 Q. Were you going back to your ambulance at this time to
12 get the gurney, as it's called?

13 A. I was grabbing the stretcher and I was updating my
14 partner.

15 Q. Okay. Is that where Thomas Lane asked to ride with you
16 or to go with you? Did you just hear that?

17 A. Yes.

18 Q. So Mr. Lane, by being in the ambulance with you,
19 allowed -- could give you help while the driver of the
20 ambulance could go down a couple blocks and get away from
21 the crowd, correct?

22 A. Correct.

23 Q. Is Mr. Lane now telling you what happened?

24 A. Yeah.

25 Q. And after he explained that to you, you were busy taking

1 care of him, but you also didn't ask him any more questions;
2 is that right, Mr. Smith?

3 A. Eventually we asked more questions, but at this time,
4 no, I did not ask further questions.

5 Q. And right now we have Mr. Lane doing chest pumps on
6 Mr. Floyd, correct?

7 A. He's doing chest compressions on Mr. Floyd.

8 Q. And while he was doing that, you were doing other
9 things, one of them being getting the LUCAS ready; is that
10 correct?

11 A. I was doing other things, and one of the other things I
12 was doing to get ready was getting the LUCAS ready.

13 Q. Did Mr. Lane appear indifferent at all when he was doing
14 what he is doing right now?

15 MS. SERTICH: Objection, Your Honor. Calls for a
16 legal conclusion.

17 THE COURT: I sustain.

18 BY MR. GRAY:

19 Q. Well, did he --

20 MS. SERTICH: Mr. Gray.

21 (Counsel confer)

22 MS. SERTICH: Your Honor, can we have a sidebar?

23 THE COURT: Okay.

24 (Video recording stopped)

25 **(At sidebar)**

1 MS. SERTICH: Your Honor, we were not planning on
2 playing this version of Exhibit 5 this morning and so we do
3 not have the blurred version pulled up for the computer. We
4 provided it to Mr. Lane this morning.

5 MR. GRAY: Well --

6 THE COURT: Counsel, how long will it take you to
7 get that thing up?

8 MR. PLUNKETT: I don't mean to interrupt -- Tom
9 Plunkett -- but I've got my version right here if that would
10 be helpful.

11 MS. SERTICH: Do you want to play it?

12 MR. PLUNKETT: How? It's on your disk. This is
13 the one you gave me this morning.

14 MS. SERTICH: Right. Do you want to play it?

15 MR. PLUNKETT: Go ahead.

16 MS. SERTICH: Can Henry do that?

17 MR. PLUNKETT: I will do whatever you want,
18 honestly.

19 THE COURT: Okay.

20 **(In open court)**

21 THE COURT: Members of the jury, this is going to
22 take a few minutes. Let me excuse the jury and step out.
23 Please don't discuss the case or speculate about this during
24 this break. And we will be in break for a few minutes.

25 (Recess taken at 10:17 a.m.)

* * * * *

(10:29 a.m.)

IN OPEN COURT

(JURY PRESENT)

THE COURT: Okay. Proceed, Mr. Gray.

MR. GRAY: Thank you, Your Honor. We were in the process of playing Exhibit 5, a portion of it. I'd ask that it start playing again.

(Video recording played during questioning)

BY MR. GRAY:

Q. While Mr. Lane is doing the chest compression, are you the only one in the ambulance besides him and Mr. Floyd?

A. Right now, no.

Q. Okay. Who else is in there?

A. My partner.

Q. All right. And that would be the man that drove the ambulance from the scene a couple blocks away?

A. Yes.

Q. And is that Tom Lane's hands helping you with -- the LUCAS, is it called? Is that Mr. Lane's hands?

A. Yes.

Q. What's Mr. Lane doing now with his hand, sir? Did you catch that?

A. Appears to be checking a pulse, holding the gentleman's head.

1 Q. What's Mr. Lane doing at this time, if you remember, at
2 the scene?

3 A. He was assisting with ventilation.

4 Q. I'm sorry. I didn't hear that.

5 A. He appears to be assisting in ventilations.

6 Q. Thank you.

7 Is that now the fire department coming?

8 A. Yes, sir.

9 Q. Is that Lane asking if you still need him?

10 A. It sounded like it, yes.

11 Q. And you didn't because the fire department was there
12 now; is that --

13 A. That's correct.

14 Q. -- accurate?

15 A. That's correct, sir.

16 (Video recording stopped)

17 Q. So he explained to you a little bit what happened with
18 Mr. Floyd in the beginning, and then I notice at the end
19 there he also told either you or your partner what he
20 thought happened; is that right? Did you hear him talking?

21 A. Yes, sir.

22 Q. And was he helpful to you when he was in there assisting
23 Mr. -- assisting you with Mr. Floyd?

24 A. In my opinion, he was helpful, yes.

25 THE WITNESS: Thank you.

1 BY MR. GRAY:

2 Q. And by doing the chest pumps and what you were doing in
3 there, what you're attempting to do was to revive Mr. Floyd,
4 correct?

5 A. We were attempting to revive Mr. Floyd, yes.

6 Q. And sometimes you're successful in that; is that right?

7 A. Sometimes you can be successful in resuscitating, yes.

8 MR. GRAY: Thank you. That's all I have.

9 THE COURT: Thank you.

10 Mr. Paule.

11 MR. ROBERT PAULE: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. ROBERT PAULE:

14 Q. Good morning, Mr. Smith.

15 A. Hi.

16 Q. Hi. My name is Bob Paule. I, along with my daughter,
17 Natalie Paule, represent Officer Thao or former Officer
18 Thao.

19 You and I have never met, have we?

20 A. No, sir.

21 Q. Okay. On the other hand, you've met, I think, a total
22 of five times, at least, previously to speak to other
23 people, correct?

24 A. I've spoken with other people, yes.

25 Q. Okay. And I'd like to talk a little bit -- because

1 today when the government was asking you questions, they
2 asked you about the reasons that you moved upon arrival, and
3 I believe you stated five different reasons.

4 You stated, one, there was a large crowd; is that
5 correct?

6 A. Yes.

7 Q. Okay. And just so the jury knows, could you please tell
8 us the approximate number of people that you thought were
9 there.

10 A. Double digits, I thought. And if you encompass the
11 other sides of the street --

12 Q. So --

13 A. -- 20, maybe even 20.

14 Q. Pardon me. I interrupted you.

15 And it seems obvious to me that when you arrive on
16 a scene, you are not really normally paying attention to the
17 people around, you are trying to focus on your patient, is
18 that accurate?

19 A. When I arrive on scene, I generally am trying to take
20 care of my patient, but I am also trying to be aware of
21 things going on around me as best I can, but I am human
22 and --

23 Q. Sure. Some of that is related to your patient care, is
24 it not?

25 A. Yes.

1 Q. And some it's also related to your safety, correct?

2 A. Yes.

3 Q. Your own personal safety, that's what I meant. Is that
4 accurate?

5 A. Mine, my crew's, other bystanders, the officers, the
6 patient, and everybody's safety is to be considered.

7 Q. Okay. You also indicated, and I've got it sort of
8 separated as two reasons, but the fact that Mr. Floyd, you
9 believed, was in cardiac arrest was one of the reasons,
10 correct?

11 A. Yes.

12 Q. And I believe that you indicated, first, that that
13 requires a lot of work and focus from people like you, who
14 were trying to work on the patient, correct?

15 A. Working a cardiac arrest takes focus and -- yeah.

16 Q. And then you also indicated, the second reason that I
17 have related to the cardiac arrest, is that the type of care
18 you need to provide involves some aspects that might sort of
19 expose that person. In other words, you are talking about
20 the dignity of the person you are trying to treat, correct?

21 A. Yes, sir.

22 Q. You also indicated, in response to the government,
23 that -- you talked about having your equipment in the rig.
24 And by the way, just as an aside, Mr. Smith, when you use
25 the term "rig," are you referring to the ambulance?

1 A. When I use the term "rig," I'm referring to the
2 ambulance.

3 Q. Is that sometimes called other things, like a squad or
4 something like that, as well by you?

5 A. I've never heard it called a squad. A squad, to me,
6 would be a police vehicle.

7 Q. Okay. And when you talked about the equipment in your
8 rig, could you please tell us what you meant and elaborate a
9 little bit on that.

10 A. What I meant by the equipment being in the rig is that
11 there's airway equipment, there's cardiac equipment, there's
12 medications, there's other devices we may use throughout to
13 care for a patient.

14 Q. Okay. And then the last reason, that I at least wrote
15 down, was that moving away from the scene would be -- would
16 allow you to work on your patient without any distractions,
17 correct?

18 A. It would limit the distractions, yes.

19 Q. What did you mean by that, sir?

20 A. What do I mean by limiting the distractions?

21 Q. Yes.

22 A. Environmental controls, getting away from the screaming,
23 shouting. Like I said, all my equipment is there. It's a
24 controlled environment. As best we can replicate as an ER
25 bay on four wheels, essentially, but.

1 Q. And can I ask you just a general sort of question? It
2 seems to me like once you relocated your rig to 36th and
3 Park, you performed a number of medical interventions on
4 Mr. Floyd to get him what's called stable and then the
5 decision was made to drive to the hospital; is that correct?

6 A. Yes. Once I thought the cardiac arrest was manageable
7 by the individuals I had, we elected to transport the
8 patient.

9 Q. And at some point when you were being questioned by I
10 believe it was the FBI, they asked you why you didn't just
11 load Mr. Floyd into the ambulance and drive straight to the
12 hospital. Do you remember that?

13 MS. SERTICH: Objection, Your Honor. Improper
14 form of the question.

15 THE COURT: Well, I will overrule. He may answer
16 it "yes" or "no."

17 THE WITNESS: Can you repeat the question?

18 BY MR. ROBERT PAULE:

19 Q. I can just phrase it differently.

20 A. Okay.

21 Q. If someone were to ask you, instead of putting Mr. Floyd
22 in the ambulance and performing all kinds of care on the
23 scene or even at a different location, why you didn't just
24 drive that person straight to the hospital as fast as you
25 could, it seems like a silly question, but could you please

1 answer that?

2 A. We don't drive straight to the hospital. We have
3 equipment and care we can provide to stabilize a patient and
4 then transport in this situation.

5 Q. In other words, it's actually better for the patient if
6 you provide care on the scene and get him to what's
7 considered a stable position before you transport; is that
8 correct?

9 A. Yes.

10 Q. Is that kind of a common misnomer or misplaced thought
11 about how people look at what you do?

12 A. I think there needs to be an education to what EMS
13 provides society, yes.

14 Q. Could I go back and ask some questions about your
15 qualifications?

16 You studied for how long to become an EMT -- or,
17 excuse me, a paramedic, correct?

18 A. I'm a paramedic, yes.

19 Q. Could you please explain to me the distinction between
20 what a paramedic is and an EMT, if I'm using the right
21 terms, sir.

22 A. There's a paramedic, which is the highest level of
23 prehospital care. There's an EMT. EMT can do vitals,
24 oxygen, CPR, some very basic drugs. You get into the
25 paramedic level, which I'm at, you get into cardiac stuff,

1 more advanced drugs, some advanced airways and maneuvers.

2 Q. Okay. And so to study to be a paramedic like you are,
3 you not only have to pass a test, but you have to study for
4 some period of time, correct?

5 A. Yes, sir.

6 Q. How long did you do that, sir?

7 A. Approximately a year.

8 Q. Okay. And just as a comparison for the jury, do you
9 know how long a person needs to study or how long of
10 training it is to become an EMT?

11 A. I believe it's a few months.

12 Q. So much less than it is to be a paramedic, correct?

13 A. There is a difference between becoming a paramedic and
14 an EMT.

15 Q. Okay. And if I'm correct, aren't you also, sir, a
16 volunteer firefighter somewhere in this area?

17 A. I was, yes.

18 Q. Now, just so the jury knows, could you give us on some
19 level just a basic idea of how the training that you
20 received or your certifications are different, say, than
21 your average Minneapolis firefighter.

22 A. Can you repeat that, please?

23 Q. Sure. And it was a poorly phrased question.

24 How is your level of medical training and
25 certification different than, say, a firefighter who has an

1 EMT certification?

2 A. You want to know as a paramedic or you want to know as a
3 volunteer -- at my previous tenure as a volunteer
4 firefighter, how it differs from Minneapolis Fire?

5 Q. I think I'm confusing you, and I don't mean to do that.

6 A. That's fine. I just want to understand.

7 Q. Yes. You work oftentimes with Minneapolis Fire; is that
8 correct?

9 A. Yes.

10 Q. And how are they helpful to you in that role?

11 A. They provide an extra set of hands and skill sets. That
12 way I can focus on more of the paramedic stuff.

13 Q. So they perform sort of basic medical services to allow
14 you to perform more advanced ones; would that be accurate?

15 A. More or less, yes, that's accurate.

16 Q. And in your job as a paramedic with Hennepin Healthcare,
17 you work also with Minneapolis Police Department members?

18 A. On some calls, yes.

19 Q. What level of medical care are they generally able to
20 provide to assist you?

21 A. I think to at least get POST, they've got to be first
22 responders. I'm sure there's a few EMTs floating around.

23 Q. Just so I'm clear, you are a paramedic, which is
24 essentially the highest level of emergency medical response,
25 correct?

1 A. Yes.

2 Q. And then there's something called emergency medical --
3 is it technician for EMT?

4 A. Yes, sir.

5 Q. And then you indicate there is a lower level. What was
6 that? And I don't you want to use the wrong terms.

7 A. I believe it's first responders. You'd have to look at
8 the registry for the current titles of all this, but yeah.

9 Q. So if I'm following you correctly, police are sort of
10 the lowest level of medical care, correct, first --

11 A. Yes.

12 Q. -- responders?

13 And Minneapolis Fire would be a higher level, that
14 EMT level?

15 A. Correct.

16 Q. And then a paramedic, which is what you are, that took
17 about a year to be trained, correct?

18 A. Yes, sir.

19 Q. And just the jury knows, I would assume you do some
20 level of ongoing certification licensure process, correct?

21 A. Yes, sir.

22 Q. In other words, you are trying to train and learn new
23 things to become better at what you do, correct?

24 A. Yes, sir, I'm trained.

25 Q. Okay. Now, going back to the scene -- again, I'm

1 talking about the scene upon your arrival on May 25th --
2 when Ms. Sertich was asking you questions, you described the
3 crowd as using elevated tones, correct?

4 A. Yes.

5 Q. And you guys decided to do a load and go; is that
6 correct?

7 A. Yes.

8 Q. Now, you spoke to FBI agents about four days after this
9 occurred, on May 29th of 2020; is that correct?

10 A. Sounds accurate. I don't have specifics on it, but
11 yeah.

12 Q. And just to put it in context, I'm assuming this is a
13 very chaotic time for you professionally given what was
14 happening in Minneapolis with all the unrest or however you
15 want to describe that, correct?

16 A. Yeah, that's -- yes.

17 Q. And, by the way, basically what you do professionally is
18 you try to help people medically and save people's lives,
19 correct?

20 A. I try to help people medically to save their lives, yes.

21 Q. And you put your patient's care first, correct?

22 A. I put myself and my crew and responders first, and then
23 the patient is a very close second.

24 Q. Okay. And pardon me. I didn't mean to imply anything.

25 So the idea is you want to make sure that you go

1 home safe at the end of every day, sort of overall
2 arching -- overarching principle, correct?

3 A. If I'm hurt, I can't help. So take care of me, so I can
4 take care of others.

5 Q. Okay.

6 A. That's my thought on it.

7 Q. Now, do you remember describing or what you told the FBI
8 when you met with them approximately four days after this
9 incident with regard to your description of the crowd?

10 MS. SERTICH: Objection, Your Honor. He should
11 ask a question and then impeach.

12 THE COURT: I'm going to overrule because this can
13 just be answered "yes" or "no."

14 THE WITNESS: I don't recall specifically what I
15 said to the FBI during -- approximately four days after,
16 whenever they were interviewing me.

17 BY MR. ROBERT PAULE:

18 Q. Okay. Do you recall them asking you about why you
19 left -- you chose to leave the scene with Mr. Floyd in the
20 ambulance rather than providing care right away?

21 A. It's -- yeah. Similar to whatever we already discussed.

22 Q. Well, it was in a little more detail, wasn't it?

23 A. What do you have to suggest, sir?

24 Q. Well, do you recall telling them that you arrived on
25 scene to, quote, a large crowd of people with cell phones

1 out, they appeared very agitated, yelling and pleading with
2 Minneapolis Police?

3 A. I believe that's been discussed, but okay.

4 Q. Do you recall telling them, quote, I wanted to get off
5 the scene due to the environment we are in?

6 A. Yeah. I told that to my partner, yeah.

7 Q. Do you recall telling the FBI that you told your
8 partner, quote, I want you to get to at least 42nd and
9 Chicago or somewhere else you deem safe?

10 A. Yeah, I wanted to get a few blocks away.

11 Q. Do you recall telling the FBI back on May 29th, "I'm
12 going to go home at the end of the night, the way they teach
13 it is scene safe, and that scene was not safe"?

14 A. Yeah, that sounds appropriate.

15 Q. And do you recall the FBI asking you questions about why
16 rendering aid at the scene when you first arrived at 38th
17 and Chicago would have been difficult?

18 A. As we've already discussed, yes.

19 Q. Okay. Do you recall telling them "especially with that
20 hostile crowd that I depicted"?

21 A. I felt it was a hostile crowd, yes.

22 Q. "And we had recent events of individuals trying to get
23 into the back of our squad and ultimately losing his life."
24 Do you remember that?

25 A. Yeah, it's -- with the Jamar Clark incident, he, you

1 know, unfortunately got shot trying to get in the back of
2 one of our rigs. The community remembers that and then now
3 I've got this and obviously burned half the city to the
4 ground, so.

5 Q. So obviously your own personal safety is something that
6 you, like everyone else, take very importantly, correct?

7 A. Yes, sir.

8 Q. And your description of that scene was you did not feel
9 it was safe, correct?

10 A. I did not feel it was safe.

11 Q. Now, do you recall meeting again on August 4th of 2020
12 with more FBI agents and several federal prosecutors?

13 A. I've met with a bunch of people, yeah.

14 Q. You were aware some of those people were FBI agents?

15 A. FBI and CIA. I don't know all the acronyms, but yeah.

16 Q. Okay. And there were some lawyers there as well, some
17 prosecutors, were there not?

18 A. I believe so.

19 Q. And one of them was actually a woman named Samantha
20 Trepel, at least virtually, correct, if you recall?

21 A. Honestly, I've met so many people and lawyers and suits,
22 I don't remember everybody name. I apologize.

23 Q. And just as an aside, when you met with the FBI both on
24 May 29th of 2020 and on August 4th of 2020, there were a
25 number of people sort of on your behalf at those meetings as

1 well too, correct?

2 A. Yes.

3 Q. Okay. The lead lawyer for Hennepin Healthcare, that
4 person was there?

5 A. Yep.

6 Q. The head of the emergency medical service for Hennepin
7 Healthcare, first name Martin Scheerer?

8 A. My chief was present at a few meetings, yes.

9 Q. Am I using the right term when I call him the head of
10 it?

11 A. Honestly, I don't know his title.

12 Q. Okay.

13 A. I call him chief. I don't know.

14 Q. He's in charge, correct?

15 A. Yep.

16 Q. Okay. But when you met with the FBI on April 4th of
17 2020, do you recall telling them about the scene itself?

18 A. When I met with them, did I tell them about the scene
19 itself?

20 Q. Yeah.

21 A. Yes.

22 Q. Okay. And do you remember them asking you about whether
23 or not you've ever been able to resuscitate someone?

24 MS. SERTICH: Objection, Your Honor. Mr. Paule
25 can ask these questions or he can refresh Mr. Smith's

1 recollection, but reading the questions and answers should
2 not be permitted.

3 THE COURT: Yeah, counsel, I sustain. If you want
4 to -- if you need to show it to him to refresh his
5 recollection, that's fine, but --

6 MR. ROBERT PAULE: I can rephrase.

7 THE COURT: -- is not going to work.

8 BY MR. ROBERT PAULE:

9 Q. Do you recall being asked about whether or not you've
10 ever been able to resuscitate someone successfully?

11 MS. SERTICH: Same objection, Your Honor.

12 THE COURT: Well, he can answer this "yes" or "no"
13 and then we'll find out.

14 THE WITNESS: I was asked if I've ever
15 successfully resuscitated during these meetings, yeah.

16 BY MR. ROBERT PAULE:

17 Q. Do you recall what you said, sir?

18 A. It's possible --

19 MS. SERTICH: Objection, Your Honor.

20 THE COURT: I'm going to overrule. He's
21 answering, I think, what he said. If he's not, then we can
22 show him what was said on that report, but his own
23 recollection can count, if that's what it is.

24 MS. SERTICH: Your Honor, I believe he can be
25 asked his current feelings about these questions first

1 before referring to an old -- or an older interview with him
2 to see if the answers are consistent or inconsistent.

3 THE COURT: I don't think so. I've lost the
4 question now. Let's start over again and we'll go from
5 there.

6 BY MR. ROBERT PAULE:

7 Q. Mr. Smith, let's just put it simply. Did the -- do you
8 recall what you told the FBI and the federal prosecutors
9 about whether you'd ever been able to resuscitate someone
10 who had been in a cardiac arrest successfully?

11 A. I don't recall specifically what I stated to them in
12 those meetings, but if you are trying to wonder if it's
13 possible to resuscitate somebody, it's possible to
14 resuscitate somebody. It's also possible to not resuscitate
15 somebody.

16 Q. Sure. Have you ever done that yourself, sir?

17 A. I have had a successful resuscitation, yes.

18 Q. Okay. And that's what you told the FBI on August 4th?

19 A. Okay.

20 Q. Do you recall that incident, the incident in question
21 where you resuscitated the person?

22 A. Yeah, vaguely.

23 Q. Okay. Would that have been someone who was in cardiac
24 arrest and you were able to resuscitate them and drop them
25 off at the emergency room of a hospital?

1 A. Yes.

2 Q. And did that person ultimately survive?

3 A. I don't know the outcome.

4 Q. Okay. And then do you recall, going to a different
5 meeting, on March 8th of 2021 did you have a meeting with
6 six state prosecutors to prepare for an entirely different
7 legal proceeding?

8 A. I don't know specifically the dates and who I've met.
9 Like I said, I've met so many people and been jerked around,
10 I don't know.

11 Q. Okay. Do you remember what you said to them about what
12 your first thought was upon arrival at the scene of 38th and
13 Chicago?

14 MS. SERTICH: Objection, Your Honor. Hearsay.

15 THE COURT: Sustained. That is hearsay, counsel.

16 MR. ROBERT PAULE: All right.

17 BY MR. ROBERT PAULE:

18 Q. Did you have another meeting with a bunch of state
19 prosecutors on March 31st of 2021?

20 A. I don't know specific dates and who I met, like I've
21 said.

22 Q. Okay.

23 A. I would have to look at my calendar or whatever you may
24 have to present to the court.

25 Q. Would you take -- would you disagree with me if I said

1 that that's the date that's indicated in some records I've
2 received?

3 A. I would assume it's correct.

4 Q. And ultimately you testified at a different proceeding;
5 is that correct?

6 A. I have testified before, yes.

7 Q. Now, you testified previously that the original dispatch
8 was a Code 2, correct?

9 A. Yeah.

10 MS. SERTICH: Objection. Hearsay.

11 THE COURT: No, that's testimony today. It's
12 overruled.

13 BY MR. ROBERT PAULE:

14 Q. And you testified that that was upgraded to what's
15 called Code 3, which means lights and sirens, approximately
16 a minute and a half later; is that correct?

17 A. I testified we were upgraded to Code 3. I don't recall
18 the exact duration.

19 Q. Okay. And when you -- on the way to the call, based on
20 that information, what were your thoughts about what
21 potential situation you'd be looking at upon arrival?

22 A. With -- just repeat the question, please.

23 Q. Sure. Given the information you had from dispatch, the
24 Code 2 dispatch and then the Code 3, what were your thoughts
25 about what type of situation you might be encountering when

1 you first arrived?

2 A. A Code 3 upgrade, I would encounter some life-or-death
3 situation.

4 Q. I'm sorry. I couldn't hear you, sir.

5 A. With a Code 3 upgrade, there would probably be maybe a
6 potential life-or-death situation or similar.

7 Q. Were there any specific medical conditions you were
8 thinking about?

9 A. With the PD custody, potentially excited delirium or
10 somebody just not going with the program. I don't know.

11 Q. Sure. And when you used that term "excited delirium," I
12 don't know that everyone is familiar with it. Could you
13 tell us what you are referring to, please.

14 A. Some people in the medical community believe there is an
15 event that occurs called excited delirium, super-human
16 strength and your body is just redlining and you can't stop
17 it because -- due to drugs or a mental breakdown or
18 whatever, and eventually you will go into cardiac arrest and
19 die. And when that happens, my understanding is there's no
20 way to resuscitate an individual once they've hit that
21 point.

22 Q. Is that a particular medical condition that you've
23 received training on as a paramedic?

24 A. Yes.

25 Q. Okay. And is that a particular medical condition that

1 you have encountered professionally over the course of your
2 career?

3 A. I have seen what I suspect to be excited delirium. I'm
4 not allowed to diagnose. That's up to a doctor.

5 Q. And when you say you've seen what you recognize, could
6 you please describe for the jury what you recognized as to
7 particular symptoms.

8 A. On this case?

9 Q. Well, let's just talk about in general. Well, let me
10 back up a step, sir. I don't mean to confuse you.

11 Have you seen in other situations, other than this
12 incident, what you believe to be a person involved with
13 excited delirium?

14 A. Yes.

15 MS. SERTICH: Objection. Speculation and
16 relevance, Your Honor.

17 THE COURT: That is relevant, and the fact that
18 he's seen it is overruled. He may answer -- or the answer
19 stands.

20 BY MR. ROBERT PAULE:

21 Q. I'm not sure you got to answer that question. I at
22 least can't tell.

23 Have you actually encountered that yourself
24 professionally?

25 A. I have seen what I suspected to be excited delirium.

1 Q. And on how many occasions?

2 A. That I don't know.

3 Q. More than one?

4 A. More than one, yes.

5 Q. Okay. And have you actually received some particular
6 medical training on how to respond to that through your
7 employment at Hennepin Healthcare?

8 A. Yes.

9 Q. And what is that particular medical training?

10 A. There's a protocol we can provide a medication to
11 alleviate the situation if it calls for it. This situation
12 that we are referring to, though, did not have that
13 opportunity. This was a cardiac arrest when I arrived and
14 we worked a cardiac arrest.

15 Q. Sure. In the last part of your answer, you are
16 referring to this particular incident, correct?

17 A. I'm talking about this Cup Foods, Derek Chauvin, George
18 Floyd, whatever, Memorial Day.

19 Q. Sure. I understand that. And if I could ask you just
20 to step back. Have you had other incidents where you've
21 experienced or encountered someone who you believed to be
22 suffering from excited delirium?

23 A. Have I seen -- yes, I've seen what I suspected to be
24 excited delirium.

25 Q. And what type of symptoms or things did you observe that

1 led you to believe that, sir?

2 A. For instance, one was it's the middle of winter, they
3 are naked running around in the street, screaming, yelling,
4 sweaty, not de-escalatable, shouting "I'm high as," beep,
5 using vulgarities. Once you get them, their heart rate is
6 through the roof and you provide interventions.

7 Q. Okay. And if I could go through some of those a little
8 more slowly because it sounds like there are a number of
9 things.

10 You mentioned one was the sweating. What did you
11 mean by that?

12 A. Well, in that instance, it's 40 below. You shouldn't be
13 sweating. It's freezing. And just perfusing sweat on all
14 of his body.

15 (Simultaneous indiscernible crosstalk)

16 COURT REPORTER: Would you say that again?

17 MR. ROBERT PAULE: I'm sorry.

18 BY MR. ROBERT PAULE:

19 Q. And, Mr. Smith, that's entirely my fault. It's not
20 yours. I'm the one that theoretically know what I'm doing
21 here.

22 But you talk about one of the symptoms of excited
23 delirium or one of the signs is excessive sweating, correct?

24 A. Yeah.

25 Q. Is there also oftentimes nudity or nakedness involved?

1 A. In my experience, there has been.

2 Q. Okay. In your experience, has there also been people
3 using loud and incoherent speech?

4 A. Yes.

5 Q. And unable to comprehend really what's going on?

6 A. Yep.

7 Q. Refusal to follow commands?

8 A. Yep.

9 Q. Is also foaming at the mouth one of the things that
10 theoretically is a symptom of that, in your training and
11 experience?

12 A. It could be.

13 Q. Now, you indicated there's certain protocols that you've
14 been trained on if you suspect a person is in that
15 particular condition; is that correct?

16 A. Yep.

17 Q. Could you please tell the jury what that is.

18 A. When I see somebody in excited delirium, what do I do?

19 Q. Yes.

20 A. Assuming we can obtain access to the individual, we can
21 potentially provide ketamine if they are in that state.

22 Q. And could you tell the jury what ketamine is.

23 A. It's a drug we provide. It essentially will sedate the
24 individual, and then we can breathe and monitor their heart
25 and provide medications and care for the patient, because

1 they were not de-escalatable.

2 Q. Is that something that you've been specifically trained
3 to do by Hennepin Healthcare?

4 A. Yes.

5 Q. And at some point maybe prior to this incident, did you
6 carry ketamine as part of the equipment you need in your
7 ambulance?

8 A. Yes.

9 Q. For that specific purpose?

10 A. That and others, yeah.

11 Q. And just as an aside, is ketamine sort of a strong
12 tranquilizer that might be used on animals, as an example?

13 MS. SERTICH: Objection, Your Honor. Relevance.
14 I think this is pretty far afield of this case.

15 THE COURT: No, I think it is relevant. I'm going
16 to overrule and he may answer.

17 MS. SERTICH: Can we have a sidebar, Your Honor?

18 THE COURT: Sure.

19 **(At sidebar)**

20 MS. SERTICH: Your Honor --

21 THE COURT: Just a minute. Before you get into
22 your objection, counsel, I have been advised that you were
23 getting feedback from my microphone. Is that feedback still
24 there or has it disappeared?

25

1 MR. GRAY: It disappeared.

2 MS. SERTICH: Only right at the end there, Your
3 Honor. While you were talking, it was fine, but then there
4 was some feedback.

5 THE COURT: Okay. I have a theory that I've been
6 too close to this light bulb here and that that may be the
7 reason that you were getting feedback.

8 Okay. Let's go to your objection.

9 MS. SERTICH: Thank you, Your Honor. Mr. Smith
10 has now testified that he did not see symptoms of excited
11 delirium with Mr. Floyd and therefore his testimony is
12 irrelevant on this point.

13 MR. ROBERT PAULE: Your Honor, Robert Paule. In
14 response, I've been talking this last few series of
15 questions in terms about what experience he's had
16 professionally, as well as the training and the protocols.

17 He also indicated that upon arrival his suspicion
18 was, based on the information he had, that he may be dealing
19 with a situation involving excited delirium.

20 MS. SERTICH: Your Honor, that was not the
21 situation he actually arrived to, however, and that's what
22 he said.

23 THE COURT: Counsel, there's earlier testimony in
24 this case of the potentiality of excited delirium.
25 Admittedly, at the time that this witness arrived the person

1 was nonresponsive. But this type of testimony, because of
2 the foundation that was previously laid, is admissible and I
3 overrule the objection. He may answer.

4 **(In open court)**

5 THE COURT: Proceed, Mr. Paule.

6 MR. ROBERT PAULE: Thank you.

7 BY MR. ROBERT PAULE:

8 Q. And to be perfectly honest, Mr. Smith, I forgot what I
9 asked you.

10 MR. ROBERT PAULE: Would it be possible, please,
11 to have the court reporter please read back my last question
12 to reorient at least me?

13 (Requested portion read back)

14 THE WITNESS: I don't know if they use it on
15 animals. It is a sedative, that's why we use it. Because
16 the person is incapable of making their won decisions, so we
17 make them for them to better serve them.

18 BY MR. ROBERT PAULE:

19 Q. In other words, you sedate people using this
20 tranquilizer to protect them to allow you to help them
21 medically?

22 A. Correct.

23 Q. Have you ever in your own personal experience used
24 ketamine or a sedative to sedate somebody who you suspected
25 was under this condition?

1 A. Yes.

2 Q. How many times?

3 A. I don't know.

4 Q. More than once?

5 A. More than once.

6 Q. Now, reorienting you, do you remember back when you met
7 with the federal investigators and the prosecutors on
8 April 4th of 2020, did you discuss with them about your
9 experience with excited delirium?

10 A. I recall having some sort of conversation. I don't
11 remember the details of it.

12 Q. Okay. Do you recall being asked -- excuse me. Do you
13 recall being asked whether excited delirium was a real
14 condition?

15 MS. SERTICH: Objection. Hearsay.

16 THE COURT: That is hearsay, counsel. Sustained.

17 BY MR. ROBERT PAULE:

18 Q. Do you recall discussing this issue with them on
19 August 4th?

20 A. Yes, I recall discussing excited delirium.

21 Q. And do you recall discussing this with the state court
22 prosecutors when you met with them in preparation for the
23 previous hearing?

24 A. Yes.

25 Q. Do you recall -- well, let me ask you -- I'll rephrase

1 it differently -- Mr. Smith, do you have training and own
2 personal experience on whether -- if someone in excited
3 delirium results in cardiac arrest, what the likelihood of
4 resuscitation would be?

5 A. From my understanding, it's -- you do not -- you are not
6 able to resuscitate them. Once they have hit that cardiac
7 state, they're dead.

8 Q. Now, just a couple more questions.

9 Going to when you first arrived, Mr. Lane --
10 excuse me, Mr. Gray asked you some questions about this, but
11 in the video did you notice that when you checked the pulse
12 of Mr. Floyd, that Officer Chauvin still had his knee on
13 Mr. Floyd's neck?

14 A. I had enough room to check a pulse. The exact
15 positioning, you'd have to look at the film.

16 Q. Do you remember that you didn't recall that until you
17 actually saw a video of this incident?

18 A. As we sit here today, I -- it's been a few years. I'm
19 not recalling everything. And, like I said, I've been
20 jerked around and answering so many questions. I try to
21 block this out and seek my own treatment to move on from
22 this and get my life together.

23 Q. Probably explains Shakespeare, doesn't it?

24 Just going back to this case, did you draft
25 something called a PCR or patient care report?

1 A. Yes.

2 Q. Can you just briefly tell the jurors what that is.

3 A. The document we had up earlier.

4 Q. Okay. And I believe that was Exhibit 109; is that
5 correct? And you wouldn't know that.

6 A. I don't know that.

7 MR. ROBERT PAULE: Could I please have Exhibit 109
8 pulled up on the screen?

9 BY MR. ROBERT PAULE:

10 Q. Mr. Smith, do you see Exhibit 109?

11 A. Yes.

12 Q. Is that the patient care report that you drafted?

13 A. Yep.

14 Q. I'm not sure I know how to do this.

15 MR. ROBERT PAULE: Could we go to page 2, please?

16 BY MR. ROBERT PAULE:

17 Q. At the top of page 2 there's something called a
18 narrative; is that correct?

19 A. Yes.

20 Q. Could you tell the jury what that is, please.

21 A. More or less what occurred, a summary of the events.

22 Q. And, again, this is something that you drafted, sir?

23 A. Yes.

24 Q. Did you notice anything in that narrative about
25 potential sweating involved with Mr. Floyd in this incident?

1 A. "Perfusion, sweaty, no responses," yeah, right there,
2 about third line down.

3 Q. And I don't want to put words in your mouth, but are you
4 referring to sweating profusely?

5 A. When I say "perfusion," I mean his skin color looked all
6 right, but it was sweaty.

7 Q. Okay.

8 MR. ROBERT PAULE: And then if we could move it to
9 page 4, please. May I have just a moment, Your Honor?

10 THE COURT: Yes, you may.

11 (Pause)

12 MR. ROBERT PAULE: Excuse me. If we could go back
13 to page 2. I'm sorry. I'm having a difficult time reading
14 this. I'm sorry. It's page 1. Pardon me.

15 BY MR. ROBERT PAULE:

16 Q. Going now to the bottom of page 1, Mr. Smith, when you
17 put down symptoms, do you see a notation in there about
18 sweating?

19 A. Yep.

20 Q. Could you tell the jury what you wrote.

21 A. It's a preselected thing, but I selected sweating.

22 Q. Okay. It's actually excessive sweating, isn't it?

23 A. Yeah.

24 Q. Okay. Now, Mr. Smith, to be fair --

25 MR. ROBERT PAULE: And I'm done with the exhibit.

1 Thank you very much.

2 BY MR. ROBERT PAULE:

3 Q. To be fair, when we talk about this incident involving
4 George Floyd, you did not observe excited delirium with
5 regard to Mr. Floyd; is that correct?

6 A. I did not, no.

7 Q. Can you tell the jury why that is, please.

8 A. I don't know. I showed up to a cardiac arrest.

9 Q. Okay. In other words, if he was in excited delirium,
10 that would have been something that would have occurred
11 before that point, correct?

12 A. Yes.

13 Q. But that's what you, as a paramedic with your level of
14 training, suspected upon arrival, correct?

15 A. With the sudden upgrade, police custody, some of the
16 notes indicating drug use, I suspected that.

17 Q. Okay. Thank you very much, sir. I don't have any
18 further questions.

19 THE COURT: Thank you.

20 Mr. Plunkett.

21 CROSS-EXAMINATION

22 BY MR. PLUNKETT:

23 Q. Good morning, sir.

24 A. Hello.

25 Q. My name is Tom Plunkett.

1 A. Hi.

2 Q. Hi. It's nice to meet you. We've never had the
3 pleasure of meeting before; isn't that correct?

4 A. I have never met you, sir, no.

5 Q. I'm not going to re-ask the questions that you've
6 already endured, but I do have a few other questions.

7 A. Yes, sir. Thank you.

8 Q. Thank you, sir.

9 When you arrived at the scene, you took a carotid
10 pulse; is that correct?

11 A. Yes.

12 Q. Not to state the obvious, but that's a pulse taken at
13 the neck, correct?

14 A. Yes, sir.

15 Q. And the reason you do that is because that's the best
16 place to take a pulse; isn't that correct?

17 A. That's where I've been trained to do it, yep.

18 Q. They wouldn't train you to take a pulse at the bad place
19 to take a pulse, would they?

20 A. I don't know.

21 Q. I suppose anything is possible.

22 In fact, it's my understanding of your training is
23 that if you can't get a -- radial or a posterior tibial
24 pulse, you would defer to the carotid pulse; isn't that
25 correct?

1 A. If I can't get a radial or a what?

2 Q. A pulse at the ankle, a posterior tibial pulse.

3 A. If I can't get any of those, I do a carotid. I suppose
4 you can check a pulse in multiple different locations, if
5 that's what you are asking.

6 Q. But the radial pulse is where you'd go to, correct?

7 A. I'm sorry. I'm not understanding what you are trying to
8 get at.

9 Q. I'm sorry. Because you know why you are not
10 understanding is because I'm mixing up radial and carotid.
11 I owe you an apology, sir.

12 A. Thank you.

13 Q. I'm not trying to be tricky with you and I want to be
14 respectful, so I do apologize. I think we've done enough
15 about pulses. We agree that the neck is the one you want to
16 go for.

17 My -- you were asked some questions about talking
18 to the police officers at the scene, and now you've had a
19 chance to review your -- the movie or the video. And it
20 would be correct to say that you didn't talk to the police
21 at the scene initially, correct?

22 A. Other than I told them to get out of the way when we
23 were loading him, but I did not verbally tell them anything
24 upon arrival.

25 Q. Okay. You took over, you got to work trying to take

1 care of your patient; isn't that what you did?

2 A. I wasn't sure what was going on. I was trying to gather
3 information. I didn't necessarily take over the scene.

4 Q. I didn't say you took over the scene, and I didn't mean
5 to imply that. You started doing your job is what I was
6 trying to say.

7 A. Okay. Yes, I was trying to gather information to better
8 serve Mr. Floyd.

9 Q. And what's why you checked his eyes and you checked his
10 pulse, and then you -- at that point that was the
11 information you gathered, right?

12 A. Yes.

13 Q. And you didn't talk to the officers after that, you went
14 right back to grab your gurney out of the rig, correct?

15 A. I talked to my partner, yep. I did not talk to the
16 officers.

17 Q. Okay.

18 MR. PLUNKETT: Nothing further, Your Honor. Thank
19 you.

20 THE COURT: Thank you.

21 Counsel, redirect?

22 MS. SERTICH: Thank you, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. SERTICH:

25 Q. Mr. Smith, both Mr. Gray and just now Mr. Plunkett asked

1 you some questions about what you told the officers to do
2 when you first arrived on the scene.

3 Having reviewed the video they played, did you say
4 anything to them when you first arrived on the scene?

5 A. I believe the first thing I said to them was "Get out of
6 the way" when we were trying to load him.

7 Q. And that's when you had the gurney?

8 A. Yep.

9 Q. You were asked a number of questions about moving the
10 ambulance to get away from the crowd. Do you recall those
11 questions?

12 A. Yep.

13 Q. And you previously testified that you heard elevated
14 tones. You didn't know what those folks were saying,
15 correct?

16 A. Correct.

17 Q. When did you learn that those bystanders had been
18 yelling for the officers to take Mr. Floyd's pulse and get
19 off of him?

20 A. After the fact.

21 Q. So not at any point on that night of May 25th, 2020?

22 MR. PLUNKETT: Objection. Asked and answered.

23 THE COURT: No, he may answer.

24 BY MS. SERTICH:

25 Q. So not at any point on that night of May 25th, 2020?

1 A. I don't recall being told, no.

2 Q. Was part of the confusion on scene the lack of
3 information you had?

4 MR. GRAY: Object to that as leading, Your Honor.

5 THE COURT: That is leading, counsel. Sustained.

6 BY MS. SERTICH:

7 Q. Mr. Smith, you previously testified you felt like there
8 was a lack of information when you first arrived on the
9 scene, right?

10 MR. GRAY: Object to that, Your Honor, as leading.
11 It's also repetitious.

12 THE COURT: It is, counsel.

13 MS. SERTICH: Your Honor, I'm trying to lay the
14 foundation for my next question by asking about his previous
15 testimony.

16 THE COURT: Okay. Then you may ask it.

17 BY MS. SERTICH:

18 Q. You previously testified, Mr. Smith, that you didn't
19 feel like you had sufficient information when you arrived on
20 scene; is that right?

21 A. In reference to the Code 2, Code 3 upgrade, I felt more
22 information could have been provided.

23 Q. And did that lack of information add to the feeling on
24 the scene that you wanted to get into the ambulance?

25 MR. PLUNKETT: Objection. Relevance.

1 THE COURT: Again I sustain the objection,
2 counsel. We're leading.

3 BY MS. SERTICH:

4 Q. Now, Mr. Gray played a video for you that showed
5 Mr. Lane giving his response about what happened on the
6 scene. Do you remember that?

7 A. Yes.

8 Q. And having reviewed that video again with Mr. Gray, were
9 you told that Mr. Floyd was restrained on the ground for
10 more than nine minutes with a knee on his neck before you
11 had arrived on the scene?

12 A. No.

13 Q. When did you learn that information?

14 A. After the fact.

15 Q. Were you told that Mr. Floyd did not have a pulse for
16 minutes before you arrived?

17 MR. PLUNKETT: Objection, Your Honor. Improper.

18 THE COURT: Again, I sustain.

19 MR. PLUNKETT: I'm marking the record for a future
20 motion, too.

21 BY MS. SERTICH:

22 Q. When did you learn that Mr. Floyd had been unconscious
23 for a couple minutes before you arrived on the scene?

24 MR. GRAY: Your Honor, object to that as leading
25 and it's also not accurate.

1 THE COURT: I sustain.

2 BY MS. SERTICH:

3 Q. And then I believe in the longer version of the video
4 played that Mr. Gray showed you, when the firefighters came
5 in, Mr. Lane started to talk again about what happened; is
6 that right? Did you hear that?

7 A. Yeah.

8 Q. And, again, did you hear anything about a loss of pulse
9 or consciousness?

10 A. I don't recall that.

11 Q. When did you first hear about that?

12 MR. PLUNKETT: Objection. Improper.

13 THE COURT: Yeah, counsel, I sustain. That video
14 speaks for itself, and I sustain the objections to it.

15 BY MS. SERTICH:

16 Q. You were asked some questions by Mr. Paule about the
17 fact that you didn't drive straight to the hospital. Do you
18 remember that?

19 A. Yes.

20 Q. And you said that in this situation, this specific
21 situation, that was the right thing to do. Do you remember
22 that?

23 A. Yes.

24 Q. And is that because Mr. Floyd was in cardiac arrest?

25 A. Why I stayed, yeah, I wanted to -- that was -- I stayed

1 because it was best for Mr. Floyd's outcome.

2 Q. Is getting treatment started right away important with
3 cardiac arrest?

4 A. Yes.

5 Q. Is that true even if you don't have your equipment with
6 you?

7 A. Yes.

8 Q. What can you do if you don't have your equipment with
9 you?

10 MR. PLUNKETT: Objection. Speculation. A
11 violation of pretrial order.

12 THE COURT: I sustain, counsel. I think we've
13 gone over he arrived and the ambulance came; he arrived in
14 the ambulance.

15 BY MS. SERTICH:

16 Q. Can someone who is in cardiac arrest be provided with
17 CPR?

18 MR. PLUNKETT: Objection. Speculation.
19 Relevance.

20 THE COURT: No. He may answer that.

21 THE WITNESS: If somebody is in cardiac arrest,
22 they can be provided CPR.

23 BY MS. SERTICH:

24 Q. And is it best to start that right away?

25 A. In theory, it would be ideal to start CPR right away.

1 Q. And Mr. Paule asked you a lot of questions about the
2 different levels of medical responders, paramedic, EMT, and
3 emergency responder. Is someone who is CPR certified be
4 able to start CPR?

5 A. Yes.

6 Q. Mr. Paule asked you a number of questions about what you
7 expected to see when you arrived on the scene. Do you
8 recall getting asked those questions?

9 A. Yes.

10 Q. And so was it surprising to you when you found someone
11 in cardiac arrest?

12 MR. GRAY: Object to that as leading and
13 repetitious.

14 THE COURT: Sustained. It's leading.

15 BY MS. SERTICH:

16 Q. Based on what you responded to, were you surprised that
17 there were officers on top of Mr. Floyd?

18 MR. GRAY: Same objection, Your Honor. Besides
19 that, whether he was surprised is not relevant.

20 THE COURT: Surprised is not relevant. What he
21 saw is relevant.

22 BY MS. SERTICH:

23 Q. Mr. Smith, did you see the officers on top of Mr. Floyd
24 when you arrived?

25 MR. GRAY: Object to that too as vague, Your

1 Honor.

2 THE COURT: It's overruled.

3 MR. GRAY: We don't know what officers she's
4 even --

5 THE COURT: It's overruled.

6 THE WITNESS: I saw officers on Mr. Floyd.

7 BY MS. SERTICH:

8 Q. Do you remember how many?

9 A. Three.

10 Q. You also talked with Mr. Paule about the symptoms of
11 something called excited delirium. Do you remember that?

12 A. Yes.

13 Q. And the example you gave, right, is someone naked and
14 running around in the cold and sweating; is that right?

15 A. Yep.

16 Q. And so I think you were saying -- you can correct me if
17 I am wrong -- that one of the symptoms is being
18 inappropriately clothed?

19 A. What I mean by that was generally there's like an
20 overheating and so it would be inappropriate -- so yeah.

21 Q. Was Mr. Floyd appropriately clothed when you responded
22 to the scene?

23 A. Yeah. He had jeans and a shirt on, yeah.

24 Q. And one of the things you also mentioned when Mr. Paule
25 asked you the question was that you would expect the person

1 to be using vulgarities; is that right?

2 A. Yeah.

3 Q. And I think you said not being compliant with police
4 officers; is that correct?

5 A. Just not being compliant in general or un -- you can't
6 de-escalate them or talk any sense into them.

7 Q. And in the cases you've seen, has it been hard to even
8 get that person to interact with you and answer questions
9 normally?

10 A. Yeah. They're in their own world.

11 Q. And I think you also said a person like that can't be
12 restrained; is that what you said?

13 A. I believe I said resuscitated once they've hit cardiac
14 arrest because of excited delirium.

15 Q. And that's the thing I wanted to talk about next. It's
16 your understanding that someone who is suffering from
17 excited delirium is more susceptible to cardiac arrest?

18 A. If untreated, they go into cardiac arrest and there's --
19 my understanding there's no way of resuscitating them.

20 Q. So if you were responding, as you talked about with
21 defense counsel, to a situation with someone with excited
22 delirium, given that susceptibility, would you have concerns
23 about them being held in the prone position for a long
24 period of time?

25 A. Would I -- knowing what I know, I don't know -- let's

1 see here. It would depend. If you've got three officers
2 doing their job, there might be a reason to keep him in the
3 prone position.

4 MR. PLUNKETT: I object at this point, Your Honor.
5 No disrespect. It's become nonresponsive. Also, the
6 question is not seeking relevant evidence.

7 THE COURT: I think the answer is given and it's
8 going to stand.

9 BY MS. SERTICH:

10 Q. I believe you were shown a report by Mr. Paule, the same
11 report that you and I looked at earlier about the call; is
12 that correct?

13 A. Yep.

14 Q. I just wanted to give you a chance to clarify. When you
15 were filling out that form and you indicated sweatiness,
16 were you trying to say that it automatically populates with
17 excessive sweatiness?

18 A. On that particular -- where the three were with the
19 apnea, excessive sweating one or whatever, that one is a
20 prepopulate. In the narrative, when I said perfusion but
21 sweaty or something along those lines, that I physically
22 actually wrote.

23 Q. And what were you trying to communicate by saying that
24 Mr. Floyd was sweaty in your narrative?

25 A. I was just documenting whatever information I could get.

1 I mean, it was middle of May, too, so he could have been
2 just been sweating. I don't know.

3 MS. SERTICH: Can I have just one moment, Your
4 Honor?

5 THE COURT: Certainly.

6 (Counsel confer)

7 MS. SERTICH: Nothing further at this time, Your
8 Honor.

9 THE COURT: Okay. Thank you.

10 Mr. Gray.

11 RECROSS-EXAMINATION

12 BY MR. GRAY:

13 Q. Mr. Smith, I'll be very brief. If the video in this
14 case showed that when you arrived and came over to check on
15 Mr. Floyd, that Mr. Lane was not even contacting Mr. Floyd
16 at that time, would you disagree with that, that he wasn't
17 on top of him?

18 A. The judge has said the video speaks for itself.

19 Q. Okay. Thank you.

20 THE COURT: Mr. Paule.

21 RECROSS-EXAMINATION

22 BY MR. ROBERT PAULE:

23 Q. Mr. Smith, just two points I want to make. One is when
24 you arrived at 38th and Chicago, let's say there wasn't a
25 crowd around there, would you have just done the medical

1 care at that particular location?

2 MS. SERTICH: Objection. Calls for speculation.

3 THE COURT: No, I'm going to overrule. You may
4 answer.

5 THE WITNESS: No crowd? I'd show up and there's
6 three officers, whatever is going on, just with a guy in
7 custody, I would put him in the back of my rig and work
8 there, yes.

9 BY MR. ROBERT PAULE:

10 Q. So the idea is you don't have to drive to another place
11 to start care because you've got everything you need right
12 there?

13 A. Yep. I've just got to get him loaded up and we can
14 start care.

15 Q. So the real reason you left that scene, the delay of
16 medical care, was caused by your concern for the crowd,
17 correct?

18 A. Yes, sir.

19 Q. Thank you.

20 Now, with regard to the second thing, with regard
21 to excited delirium, is this something I'm making up or is
22 this something you've been trained in and seen and
23 experienced yourself?

24 A. I've been trained in it. I've seen it on more than one
25 occasion, and some people in the medical community believe

Smith - Further Redirect

1 its true.

2 Q. You've actually sedated people who you believed to be in
3 that condition?

4 A. Yes.

5 Q. All right. Now, as a paramedic, you're authorized to
6 give sedatives like ketamine, correct?

7 A. Yes.

8 Q. Do you know if the police are authorized to carry and
9 administer ketamine or sedatives in that instance?

10 A. I don't believe they are.

11 MR. ROBERT PAULE: Thank you. No further
12 questions.

13 THE COURT: Anything else, Mr. Plunkett?

14 MR. PLUNKETT: Nothing further, Your Honor. Thank
15 you.

16 THE COURT: Okay. Thank you.

17 Counsel.

18 FURTHER REDIRECT EXAMINATION

19 BY MS. SERTICH:

20 Q. Just one question for you, Mr. Smith. You just
21 testified with Mr. Paule that if there hadn't been a crowd
22 there, you would have put Mr. Floyd in the back of your rig
23 and started working on him; is that right?

24 A. Yes.

25 Q. And is that what you did on May 20th -- 25th, 2020?

1 A. Yeah, more or less. We just had -- my partner drove and
2 I was already trying to do patient care with Mr. Lane
3 assisting us.

4 MS. SERTICH: Thank you. Nothing further.

5 THE COURT: Okay. Thank you.

6 With that, you may step down. Thank you.

7 MS. SERTICH: Are you ready for the next witness,
8 Your Honor?

9 THE COURT: Please.

10 MS. SERTICH: The government calls Jeremy Norton.

11 THE COURT: I think as the witness comes in,
12 counsel, my thought is that we did have a short break
13 earlier. We'll go until about 12 o'clock and then we'll
14 take a noon break at that point.

15 Sir, if you'd step up and raise your right hand to
16 be sworn.

17 JEREMY NORTON,

18 called on behalf of the government, was duly sworn, was
19 examined and testified as follows:

20 THE COURT: Take the stand, please. Slide up
21 close to the mic.

22 THE WITNESS: Yep.

23 DIRECT EXAMINATION

24 BY MS. SERTICH:

25 Q. Good morning, Captain Norton.

1 A. Good morning.

2 Q. Where are you employed?

3 A. I'm employed in Minneapolis for the Minneapolis Fire
4 Department.

5 Q. What is your position with the Minneapolis Fire
6 Department?

7 A. I am a captain.

8 Q. How long have you been a Minneapolis Fire Department
9 captain?

10 A. I promoted to captain in 2007, I promoted to battalion
11 chief in 2014, and I voluntarily returned to the captain
12 rank in 2017.

13 Q. So you said that you voluntarily went back to being a
14 captain from battalion chief?

15 A. Yes, ma'am.

16 Q. Why did you want to return to being a captain?

17 A. For me, the engagement with the public and the working
18 with the crew trumped kind of the managerial aspect of it.

19 Q. And what are your primary duties as a chief with the
20 Minneapolis Fire Department -- or captain, I'm sorry?

21 A. As a captain, ma'am?

22 Q. As captain.

23 A. I am in charge of our crew and our rigs day-to-day
24 operations. I'm in charge of safety, of delivering services
25 to the public, to ensuring that all rules and regulations

1 are followed, working well with other agencies. And then on
2 emergency calls and nonemergency calls, I am the primary
3 supervisor making sure that I assess and direct our actions.

4 Q. And, in total, how long have you been a firefighter with
5 Minneapolis?

6 A. I joined in 2000. So just about 22 years at the end of
7 this month.

8 Q. Can you describe your education and training background
9 as it relates to your work with the fire department.

10 A. Yes, ma'am. When I started in -- I applied in '98 and
11 in -- is that all right.

12 Q. Yeah.

13 A. Okay. In 2000 we were trained to EMT basic level
14 through the fire department and through Hennepin County
15 Medical Center. We did Firefighter I and II, entry level,
16 kind of whatever is considered standard level, and then
17 along with hazmat training as well.

18 Q. And as a part of that, then, do you have emergency
19 medical response training or certification?

20 A. Yes, ma'am, the EMTB.

21 Q. What does it mean to be an EMTB?

22 A. Really I believe there are two, if not three levels.
23 EMTB is kind of the entry level. It's about 150 hours of
24 coursework prior to getting a certification, passing the
25 national registry test, and then from there it's actually

1 applying it in real-life situations and then every year
2 ongoing continuing education.

3 Q. And can you compare being an EMTB and how that relates
4 to being either a paramedic or an emergency responder.

5 A. I can't speak to emergency responder. Paramedics, I
6 believe, are two years of coursework and practicals. So
7 they are -- they are advance life -- ALS, advance life
8 service, and we are basic life service.

9 So we have proficiency with an AED or heart start
10 with providing oxygen, ventilations, a lot of stuff that can
11 keep somebody alive or bring them back. And then the
12 paramedics have a far higher level of training and skill.

13 Q. You mentioned an AED. Is that one of those devices that
14 you see around in public buildings that can be used to shock
15 a person?

16 A. Yes, ma'am. I don't see one in here now, but, yes, it's
17 an automatic external defibrillator.

18 Q. And is one of the distinctions between EMTBs and
19 paramedics that paramedics can administer medications?

20 A. Yes, ma'am, that's one of the primary. They can do --
21 in Minneapolis at least they can do IVs, they can provide
22 medicines and medications, and they use an EKG monitor. And
23 then they have a manual defibrillator, which is different
24 from our automatic one.

25 Q. And then are you aware that there's another level of

1 emergency medical responder that's below EMTB?

2 A. Yes, ma'am, if you say so.

3 Q. Can you --

4 A. I'm sorry. Meaning there might be one or two below.

5 There's a community responder also, but yes.

6 Q. Understood. Can you describe a typical day for you with
7 the Minneapolis Fire Department.

8 A. Yes, ma'am. The joy and the challenge of this job is we
9 show up every day and we have no idea what's coming. So I
10 can give you a general sense.

11 We check the rig, check our equipment. We do
12 house duties. We do some form of training. And then any
13 time in our 24- or 48-hour shift that an emergency call
14 comes in, we respond. So we interrupt whatever we are
15 doing, whether it's cleaning, whether it's training, whether
16 it's having lunch or whether it's sleeping, and we respond.

17 About 80 percent of the response calls that
18 Minneapolis Fire Department does are medical in nature. And
19 then on top of that there are fire alarms, hazmat calls, CO
20 detectors, and then fires. But the majority of our work is
21 medical in nature.

22 Q. And you respond to all variety of medical calls?

23 A. Yes, ma'am. We respond essentially from before birth,
24 so any sort of OB/GYN issue, through after death,
25 essentially.

1 And, as I said, we provide BLS and in Minneapolis
2 we work in concert with the primarily Hennepin County
3 medical ambulances, south side, and then North Memorial,
4 north side, and so we work as kind of as a support with
5 them.

6 Q. You mentioned something called BLS. Can you explain for
7 the jury what that is.

8 A. Ma'am, BLS is basic life support.

9 So I can -- if someone here were to have a heart
10 attack, I can assess them and I can provide ministrations
11 myself, and then I can organize to -- without equipment try
12 to do CPR and then with equipment I can use. I'm proficient
13 with the equipment to try to bring them back.

14 Same thing with ventilations. If someone is in
15 respiratory failure, I can use a simple airway, an
16 intermediate airway, and we can use any of our oxygen
17 delivery devices to try to improve someone's respirations.

18 Q. Now, just in case the jury isn't familiar with this
19 concept, can you explain why the fire department and
20 firefighters respond to so many calls for medical
21 emergencies.

22 A. Yes, ma'am. I believe in the 1980s it was realized that
23 as the number of fires was going down, you had fire stations
24 positioned around a city to respond swiftly to every -- to
25 areas in their block.

1 So while there might be seven to twelve ambulances
2 covering Minneapolis and the outer county, for Minneapolis
3 we have 19 fire stations currently and 26 rigs spread out.
4 So we can get most places in our box within three to
5 four minutes. And then with GPS, now it's even easier;
6 whatever the closest rig is. So we respond quickly.

7 So we are able to, on emergency calls, provide the
8 buffer to keep someone alive until a higher trained, in this
9 case, ALS or the ambulance arrives. In cases that are not
10 necessarily emergent, if someone has fallen and broken their
11 leg, while that is painful, it is not necessarily life
12 threatening, so we can stabilize the injury and then we end
13 up providing assistance to the paramedics to help get
14 somebody out of this situation they are in, if that answers
15 your question.

16 Q. It does.

17 And you said, then, that in any given area there
18 are likely fewer ambulances than firefighters to respond to
19 a call; is that what you were saying?

20 A. Yes, ma'am. I can't speak to the specifics of how the
21 ambulances are deployed, but my understanding is on a daily
22 level they shift between about seven or eight to eleven or
23 twelve covering Minneapolis and then parts of the suburbs;
24 whereas, we are always -- Minneapolis Fire only responds to
25 emergency medical emergencies within the city boundaries,

1 unless there is something extraordinary.

2 Q. And so then that results in a significantly faster
3 response time under normal circumstances for fire as opposed
4 to paramedics?

5 A. Ma'am, it depends on where the ambulance happens to be,
6 but, yes, generally we can get places faster. So on most
7 calls we arrive just ahead of the paramedics, sometimes in
8 concert. And then if they are coming from, say, Wayzata or
9 somewhere outside, we might be there three, five,
10 ten minutes before they arrive.

11 And so the idea of BLS is my crew and I can keep
12 someone alive, stop whatever -- that we can -- whatever kind
13 of negative effect is affecting them and then provide care
14 until the medics arrive.

15 Q. So fair to say that you have been on calls involving
16 cardiac arrests before?

17 A. Yes, ma'am.

18 Q. And you have provided medical aid to someone who does
19 not have a pulse?

20 A. Yes, ma'am.

21 Q. Do you frequently respond to calls where the Minneapolis
22 Police Department officers are on a scene?

23 A. I do. I'm not sure how we would define frequently, but
24 there are many calls where police are called in because the
25 nature of the call is unclear and there are calls where we

1 come in because there is both a civil or a criminal issue as
2 well as a medical issue.

3 Q. So you anticipated my next question, which is: Do those
4 calls ever include a situation where someone who is being
5 arrested by the Minneapolis Police Department requires
6 medical treatment?

7 A. Yes, ma'am, I've been on several of those.

8 Q. Were you on duty with the fire department on May 25th of
9 2020?

10 A. Yes, ma'am.

11 Q. And where were you when you were on duty that night?

12 A. I'm stationed at Fire Station 17, 330 East 38th Street,
13 South Minneapolis.

14 Q. Okay. And when you are at Station 17 is your rig called
15 Engine 17?

16 A. Yes, ma'am, it is.

17 Q. Did you receive a call for Engine 17 to respond to the
18 area near Cup Foods that evening?

19 A. Yes, ma'am.

20 Q. And you were at the station when you received that call?

21 A. Yes, ma'am.

22 Q. Do you recall about what time you received that call?

23 A. I believe it came in at 2030 or 8:30 p.m.

24 Q. What did you learn from dispatch about the nature of the
25 call?

1 A. The call came in. Our station opened up. Dispatch
2 tells us -- kind of gives us basic information. We proceed
3 to the rig, and on our mobile data terminal rig computer it
4 will often populate with whatever information. And all this
5 said was Code 2, which is a nonemergent response, and I
6 believe it said assist, one with a mouth injury.

7 Q. And just to give the jurors a sense of how this works,
8 how is it when you are in the station that you are notified
9 of a call?

10 A. The lights click on, there's an audible clicking sound
11 of the station audio opening up, and then there are either
12 an up/down, up/down, up/down tone for medical call or five
13 or six staccato bursts for a fire call. So that kind of
14 gives us the direction.

15 Q. And you got the signals for a medical call here; is
16 that --

17 A. Actually, no, ma'am. It came in as just two solid
18 beeps, which is a Code 2 response. That was the third
19 option. I apologize.

20 Q. And the jury has had some testimony on this. Is a
21 Code 2 a nonemergent response?

22 A. Yes, ma'am.

23 Q. Was that call updated?

24 A. Yes, ma'am. We proceeded to the rig, left the station,
25 took a left onto 38th Street, and within a block it was

1 updated to Code 3. Our dispatcher gave us no further
2 information and nothing further populated the -- our data
3 terminal before we arrived.

4 Q. Okay. So you didn't receive any additional information
5 when that update happened?

6 A. No, ma'am.

7 Q. Okay. I'm going to show you a document that's been
8 admitted as Government's Exhibit 128. Do you recognize this
9 document?

10 A. Yes, ma'am. It looks like it's -- sorry. It looks like
11 it's one of our -- kind of the generated reports of our data
12 information.

13 Q. Okay. So what kind of information does this document
14 show?

15 A. In the center there under Time Stamps, it will show
16 phone pickup, first key stroke, in waiting, call -- first
17 unit assigned, which is 20:30:31, which would be us. 20 --
18 first unit en route, which is 20:31:26, and first unit
19 arrived 20:32:49. Because from when -- sorry. There's
20 often a delay from radio communication to when dispatch
21 fields it and to when they distribute it back to us.

22 Q. Okay.

23 A. But that's what it says.

24 Q. So let's walk through that with it blown up for the jury
25 so that they can see it.

1 Do you see the time here at which fire was
2 dispatched to the scene at Cup Foods?

3 A. I believe it is at 20:30:31.

4 Q. And then by what time were you en route to the Cup Foods
5 area?

6 A. At 20:31 and 26 seconds, I believe.

7 Q. So that's less than a minute later?

8 A. Yes, ma'am.

9 Q. Okay. And then you mentioned that you'd already left
10 and were about a block out when you got the upgrade; is that
11 right?

12 A. Yes, ma'am.

13 Q. So what time, then, did you arrive on the scene?

14 A. 20:32:49 seconds.

15 Q. And is that about a minute and 20 seconds after you
16 left?

17 A. Yes, ma'am.

18 Q. Okay. Going down to page 2 of Government's Exhibit 128,
19 and I want to direct your attention to the entry there at
20 20:28:36. Do you see where it says, "E412 Req Fire Code 3"?

21 A. Yes, ma'am.

22 Q. Okay. Does that tell you who requested fire and rescue
23 presence on the scene?

24 A. The right hand where it says, "E412," that is the
25 ambulance.

1 Q. Who was in the rig with you that day, Captain?

2 A. My Fire Motor Operator Or Driver Tracy Terbell,
3 Firefighter Steven Mudek, and Firefighter Jennifer Hall.

4 Q. And I think by your description we understand what Fire
5 Motor Operator/Driver Terbell does. Can you explain the
6 roles of Ms. Hall and Mr. Mudek.

7 A. Yes, ma'am. They're rank firefighters and so they -- we
8 work as a team. So even though I'm a supervisor, we all
9 work together. They work under my direction. They do most
10 of the task level activities and -- yeah. So they're kind
11 of the worker bees, essentially.

12 Q. Was Ms. Hall fairly new at the time?

13 A. Yes, ma'am.

14 Q. I'm going to show you a map previously admitted as
15 Government Exhibit 43, and I think we see up towards the
16 center top of the screen an indicator of Cup Foods. Do you
17 see that?

18 A. Yes, ma'am.

19 Q. Okay. And traveling off of the map, can you explain for
20 the jury where Station 17 is located.

21 A. Yes, ma'am. What's clipped off at the very bottom after
22 Oakland would be Portland and then 5th and then 4th. So we
23 are two blocks off the map right there, which is west.

24 Q. And about how many blocks is that, then, to Cup Foods?

25 A. It's about six.

1 Q. What did you -- actually, I'm going to show you another
2 map admitted as Government's Exhibit 1. Are you familiar
3 with this intersection?

4 A. Yes, ma'am.

5 Q. And do you see the indicator there of where Cup Foods is
6 on the upper left part of the screen?

7 A. Yes, ma'am. That's the northeast corner.

8 Q. And just touching the screen, can you indicate where the
9 fire truck pulled up when you responded to that call on the
10 evening of May 25th, 2020.

11 A. Yes, ma'am. We pulled through the intersection, pulled
12 past the store, and parked right about there (indicating).

13 Q. And you are indicating on the screen just to the right
14 of the Cup Foods entrance; is that correct?

15 A. Yes, ma'am, just east of it.

16 Q. What did you see when you first arrived on the scene at
17 38th Street and Chicago?

18 A. When we -- as we approached, because part of my job is
19 to always be looking at what we're going into and then
20 assessing for safety and assessing and then starting my plan
21 of what we're going to do, as we approached from the west
22 entering the intersection, there were several squad cars.

23 I did not -- at that point there was no indication
24 there was an ambulance. I did not see an ambulance. I did
25 not see anyone on the ground. We pulled through the

1 intersection, parked about where I designated.

2 There were -- there was at least one squad car to
3 my right on the southeast side of the intersection. I got
4 out of the rig and initially spoke to one of two police
5 officers who was standing there.

6 MS. SERTICH: Your Honor, I'm going to be digging
7 into some further video evidence here. Would this be a good
8 place to stop?

9 THE COURT: Okay. Let's do that.

10 Members of the jury, we're going to take a noon
11 recess at this time. We'll be in recess until 1:30 this
12 afternoon. I would caution the members of the jury, once
13 again, not to discuss the case amongst yourselves or other
14 persons. And we will stand in recess until 1:30.

15 The jury may be excused.

16 (Lunch recess taken at 11:59 a.m.)

17 * * * * *

18 (1:27 p.m.)

19 **IN OPEN COURT**

20 **(JURY NOT PRESENT)**

21 THE COURT: Mr. Gray, you have something?

22 MR. GRAY: Yes, Your Honor. I got an email during
23 lunchtime. I don't know if it was sent during lunchtime,
24 but I went back to my office and looked at some of my emails
25 and it was from the government advising me that they're not

1 going to pull up any more exhibits for me.

2 And I assume that when they have all the exhibits
3 on their computer, that you'd ask for one because they are
4 all -- I mean, I don't have paper exhibits, judge, so I'm
5 relying on their computer.

6 And we're trying to figure something out, but
7 it's -- I'm not going to be using that many exhibits in my
8 cross-examination, but if I ask for one, I would like to be
9 able to have access to it.

10 MS. BELL: So, judge, let me explain. I sent the
11 email this morning, and the reason I sent the email, as you
12 noticed, we have been disconnecting our computer so that
13 when defense counsel go up for cross-examination, like
14 Mr. Plunkett did yesterday, he went to plug in his computer
15 and so that he could use his computer and use the exhibits
16 as he sees fit.

17 The court will have noticed that when Mr. Gray was
18 asking us to pull up videos, there was a delay because we
19 don't know what they're asking to pull up. The computer is
20 not -- let's put it this way. It doesn't work that fast
21 sometimes.

22 And so I noticed that it was frustrating because
23 we were waiting and so I asked counsel -- I said I think
24 maybe we should go back to what is the practice I have
25 experienced here, where each side pulls up their exhibits

1 how they want, because with video in particular it is really
2 hard to get it to a particular spot if you don't know well
3 in advance where you want it. It always takes a few minutes
4 to get it moved around, as the court has seen. And so that
5 was my suggestion. That is an experience I have had.

6 Mr. Paule explained to me he has not had that experience.

7 I'm assuming defense counsel will use -- I know
8 they all have exhibits. I'm assuming they plan to pull them
9 up either in paper or however, on the computer. I'm not
10 sure how they plan to use the exhibits they've provided, but
11 I assumed they had a system because they've provided us with
12 exhibits.

13 They told me now today, since we've come in here,
14 that they are not sure if they can hook up from the table or
15 if they have to be up at the podium, and I'm not sure about
16 that either from a technological standpoint.

17 And so I'm just trying to facilitate everyone
18 getting the exhibits they want when they want them, because
19 we are going to be slow because we don't know what exhibits
20 they want to cross-examine witnesses with because they don't
21 provide us with outlines in advance, obviously.

22 So that's what I was trying to facilitate, was to
23 not have these delays starting the program back up and doing
24 all of that.

25 THE COURT: Okay. Ms. Bell, your experience in

1 this district is different than mine. My experience has
2 always been that lawyers have cooperated with one another,
3 bringing up various electronic exhibits.

4 And it is not an uncommon thing, quite frankly,
5 because the government so often has the vast majority of the
6 exhibits, which is understandable and appropriate, and
7 defense often needs them just for very limited
8 cross-examination, which I've always seen provided to the
9 defense when that is called for. And I'm going to continue
10 to say that should happen.

11 I think we get into the difficulty that we are in,
12 quite frankly, with what happened this morning. We had
13 delayed a start in order for a particular exhibit to be -- I
14 have to be careful. I use the word "modified," but that
15 isn't true. It was a particular exhibit that may have been
16 inappropriate. That's what I guess I'll say.

17 MS. BELL: Yeah.

18 THE COURT: And the plan was that that
19 inappropriate exhibit would not be used, but this other one
20 would be used. And then when Mr. Gray went to use it, he
21 didn't get the -- he got the inappropriate one.

22 MS. BELL: So what happened is I actually did give
23 him the redacted version on a thumb drive, and I didn't know
24 he was going to play it with that particular witness. We
25 hadn't loaded it on -- into the Trial Director program the

1 court has been seeing, and so that was the challenge
2 there --

3 THE COURT: Okay. Well, that was --

4 MS. BELL: -- for that particular exhibit.

5 THE COURT: That was and it is a challenge,
6 because I, frankly, was disappointed in what we had there
7 because it did just delay -- you know, it delayed with the
8 jury.

9 Now, with that, I'm going to suggest that Mr. Gray
10 be permitted to use your exhibits, but I also will suggest
11 to you, Mr. Gray, that when you are going to go into
12 cross-examination, then you need to have particular exhibits
13 that the government has, that you advise them at the
14 beginning so that they're not suddenly getting surprised by
15 what you pull up. In other words, I'm saying the lawyers
16 have got to cooperate.

17 MS. BELL: And we are happy to do --

18 THE COURT: Trying a lawsuit -- just a minute.

19 MS. BELL: Sure.

20 THE COURT: Counsel, trying a lawsuit is hard work
21 for everybody. And, yes, you have to be advocates for and
22 on behalf of your clients, but at the same token you have to
23 cooperate with each other. Otherwise, it just
24 disintegrates.

25 MS. BELL: I understand. I think we --

1 THE COURT: And that's why I'm encouraging what I
2 am.

3 I think with that, Mr. Plunkett, you had something
4 that you wanted to bring up too.

5 MR. PLUNKETT: Thank you, Your Honor. Tom
6 Plunkett.

7 During the examination of Mr. Smith, I believe,
8 I'd said -- noted an objection, several, and then at one
9 point I said I want to mark the record for a future motion.

10 And so at this point, that line of questioning,
11 Your Honor, and I want to be very respectful because I've
12 got to be honest, these are all people I have a lot of
13 respect for and I don't want to see this case deteriorate
14 any more in the way the court has pointed out, but the
15 government kept going back into the same line of questions,
16 asking the person to speculate about had this happened, had
17 that happened. That was the subject of a pretrial order.
18 Regrettably, we are seeing this as a pattern of practice of
19 tiptoeing up to the edge and often stepping over the
20 pretrial orders. I've got to say at this point I still
21 don't -- I can't articulate the prejudice right now other
22 than the fact that the jury is being tainted by this because
23 they're hearing the question, essentially it's a leading
24 question, and they're getting the testimony in.

25 Of course, the objections were all sustained and,

1 of course, there's going to be an instruction to the jury
2 that they need to disregard anything that was -- objections
3 that were sustained, but I think that it's -- I'm having a
4 hard time believing this is just a "by chance" thing when it
5 was so persistent. And then even on redirect we went back
6 to the same problem and had the same series of objections.

7 So I'm moving for a mistrial once again.

8 THE COURT: Denied.

9 MS. SERTICH: May I respond?

10 THE COURT: No, we don't need to talk about it.
11 It's denied.

12 I do caution counsel, all counsel, that on direct
13 examination leading questions are not appropriate and on
14 cross-examination they are, but that's the way it is.

15 MS. BELL: Your Honor, I would like to clarify
16 something for the record and if you would like I can --

17 THE COURT: I don't need to clarify anything,
18 counsel.

19 MS. BELL: Okay.

20 THE COURT: We got a jury ready to come in. Let's
21 get to work.

22 MS. BELL: Sure.

23 THE COURT: Can we get the jury, please.

24 (1:36 p.m.)
25

IN OPEN COURT**(JURY PRESENT)**

THE COURT: You may be seated.

Counsel, proceed.

MS. SERTICH: Thank you, Your Honor.

BY MS. SERTICH:

Q. Captain Norton, before we took a break, I believe you had just started testifying about your initial response to the Cup Foods area at 38th Street and Chicago. Do you recall that?

A. Yes, ma'am.

Q. Okay. And I'll just pull up the Government's Exhibit 1 one more time so you can remind the jury where you pulled up in the fire truck.

A. Yes, ma'am. We came from the west, pulled through and positioned ourselves right about there (indicating), just past the entry of the store.

Q. Thank you, Captain.

Okay. And you had also told the jury about what you had observed in items of squad cars when you first arrived; is that right?

A. Yes, ma'am.

Q. So then what did you do after the fire truck pulled over and parked in front of the Cup Foods?

A. Ma'am, we had no information from our dispatch at that

1 point, even with the Code 3 update.

2 Is this okay?

3 And as we entered I saw no ambulance, I saw no
4 patient on the ground. And so we stopped and I got off on
5 my side, which is -- the captain side is the front
6 passenger, and my partner got off from the back left and I
7 descended to the street.

8 Q. After that, did you encounter an officer?

9 A. Yes, ma'am. I believe there were two to my right, which
10 would be the southeast corner of the street, and I spoke
11 with one of them.

12 Q. At the time did you know that officer?

13 A. No, ma'am.

14 Q. Sitting here today, do you know who it was?

15 A. I've been told that it was Officer Thao.

16 Q. And you've talked --

17 MR. ROBERT PAULE: I object as hearsay. Ask the
18 answer to be stricken.

19 THE COURT: No, I'm going to overrule. I think
20 we're getting into identification. It's appropriate.

21 BY MS. SERTICH:

22 Q. And you've touched on this a little bit, but as you are
23 getting out of the fire truck, what are you looking for?

24 A. On most calls when we pull up, if there's -- I'm
25 basically looking to see if there's an incident before the

1 address. So the call came in at 38th and Chicago, Cup
2 Foods, which is actually, I believe, 3759, but I'm looking
3 to see if there's -- first of all, is the scene safe and
4 then what is going on in the vicinity that we're entering,
5 and then I'm looking to see what's actually going on.

6 So on a fire call I'm looking for smoke and fire,
7 I'm looking for victims. On an EMS call or car crash I'm
8 looking to see is the house damaged, are there multiple
9 patients and all that so I can update the paramedics and
10 continue -- or whatever agencies we need.

11 Q. So as you got off of the rig and encountered this
12 officer, what did the officer say to you?

13 A. I believe -- he was the Minneapolis officer. There was
14 one Park officer and one Minneapolis officer. He was the
15 Minneapolis officer. I asked, "Inside?" I kind of wiggled
16 my radio a little and said, "Inside?" Meaning there's
17 nothing out here. I believe he said, "Why are you here?" or
18 "We don't need fire. We just need EMS."

19 Q. And so did he tell you where the patient was?

20 A. No, ma'am. I clarified to him that we are EMS. I
21 believe he said, "Oh." And then at this point I was moving
22 past him clockwise around our rig and making my way to grab
23 my partner to go into the -- or go towards the store.

24 Q. Okay. So for purposes of identifying yourself and the
25 officer for the jury, I'm going to show you what's been

1 admitted as Government Exhibit No. 9, and this is from
2 Mr. Thao's body-worn camera footage and it is a clip that
3 begins at 20:32:46.

4 (Video recording played)

5 MS. SERTICH: Your Honor, I'm going to pause this
6 here. I think our volume might need some adjusting in the
7 courtroom.

8 THE COURT: Yes, it is pretty quiet. I don't know
9 how to do that.

10 MS. SERTICH: Ms. Bell will help me, I'm certain
11 of it.

12 (Counsel confer)

13 (Video recording played)

14 BY MS. SERTICH:

15 Q. And this clip ends at 20:33:19. Now, it's a little bit
16 hard to tell from the masks, but was that you who got out of
17 the passenger door of the fire truck?

18 A. Yes, ma'am.

19 Q. And I think we see there on the right-hand side of the
20 screen another firefighter who appears to have a long braid?

21 A. Yes, ma'am.

22 Q. Who is that?

23 A. That is Firefighter Jennifer Hall.

24 Q. And the body-worn camera there was on Mr. Thao, so is
25 that the person you were interacting with?

1 A. Yes, ma'am.

2 Q. At any point here did Mr. Thao tell you that there
3 wasn't a patient in Cup Foods in response to that call for a
4 Code 3?

5 MR. ROBERT PAULE: I object as leading, Your
6 Honor.

7 THE COURT: You are leading, counsel.

8 MS. SERTICH: Okay.

9 BY MS. SERTICH:

10 Q. You previously testified that Officer Thao told you he
11 had called for EMS; is that right?

12 A. No, ma'am. He said they were looking for EMS.

13 Q. And you responded?

14 A. "We are EMS."

15 Q. And did he say anything else to you?

16 A. I believe he added something about they called for
17 someone taking -- transport one who was high, I believe.

18 Q. Anything else other than that?

19 A. At that interaction, no.

20 Q. Okay. So after that did you head into Cup Foods?

21 A. Yes, ma'am.

22 Q. And what were you doing?

23 A. I was looking for a patient.

24 Q. And so looking at that final frame from the clip on
25 Government Exhibit 9, as you walked into Cup Foods were

1 there people standing nearby who were not law enforcement
2 officers?

3 A. Yes, ma'am. There were three or four people outside the
4 store and several in the vestibule right to my right.

5 Q. Can you describe those people in terms of age and
6 gender?

7 A. There was, I believe, three men and one woman.

8 Q. Older or younger?

9 A. Over 20.

10 Q. Do you recall the demeanor of those individuals?

11 A. Almost everyone was on a cell phone. They were talking
12 and speaking loudly. As we walked to the right, the
13 gentleman on my left in shorts and I believe striped socks
14 said, "Yo, you all killed that man," not to me, to the
15 officer behind me.

16 Q. As you walked by them, did you feel unsafe at all?

17 A. Negative.

18 Q. Did the officers on scene seem worried about those
19 people?

20 A. I can't --

21 MR. GRAY: Object to that, Your Honor. It's a
22 conclusion of the witness.

23 THE COURT: No, that's his observation. He may
24 answer.

25 THE WITNESS: Could you repeat that I? I

1 apologize. I spoke on you.

2 BY MS. SERTICH:

3 Q. That's okay.

4 MR. GRAY: It's also vague unless she points out
5 what officer she's talking about.

6 THE COURT: We will let the question stand.

7 BY MS. SERTICH:

8 Q. Did the officers on scene seem worried about those
9 people?

10 A. No, ma'am. At that point I had only interacted with one
11 and he was not at all -- he did not seem at all concerned.

12 Q. When you entered Cup Foods, did you encounter anyone?

13 A. Ma'am, yes. I passed through in the vestibule several
14 younger people, I would say one teenager and several
15 adolescents right in the vestibule. They were also --
16 essentially a chorus of "The police killed that man, they
17 killed him," and maybe a couple cuss words.

18 And then I passed through them. We literally
19 squeezed past each other in the vestibule. There was no --
20 no one stopped me. There was no aggression towards me. I
21 entered the store to my right, which is where -- along their
22 counter space. I believe there was one employee, but I was
23 looking for a patient down on the ground.

24 Q. Did you speak to anyone in Cup Foods?

25 A. Yes, ma'am.

1 Q. Who did you speak to?

2 A. I might have spoken briefly with one of the countermen
3 right at the -- towards the front. And then while I was
4 looking around, off-duty Firefighter Genevieve Hansen came
5 up. She was out on the street, and she followed and came up
6 on my left and started speaking with us.

7 Q. Do you recall how long she had been working as a
8 firefighter at that time?

9 A. Under two years, I believe just about, or just over a
10 year.

11 Q. And at that time did you know what her name was?

12 A. Could you clarify?

13 Q. When you first encountered her in the store, did you
14 know what her name was?

15 A. Once I recognized her, yes, ma'am, I did.

16 Q. Okay. What was Ms. Hansen's demeanor?

17 A. She came up and pretty rapid-fire started asking us
18 questions and emotionally vomiting, frankly. She was -- she
19 said, "Is he okay? Is he okay? He was down. They wouldn't
20 let him up. I identified myself as a firefighter. They
21 wouldn't let me help and I think they killed him. Tell me
22 he's okay."

23 And, you know, for clarity, I had no context of
24 what she was talking about. So at this point, I mean, she
25 was red-faced, you know, she was kind of spluttering with

her mask, her eyes were red, very, very agitated. But I had no context.

Q. Did you speak with anyone else inside of Cup Foods?

A. Yes, ma'am. I -- there were more employees towards the rear of the store, which is the southeast corner of the store, and there was a police officer talking with the employees. So I made my way back looking for a patient or a victim, and the officer turned around and we spoke -- or he spoke to me briefly.

Q. Okay. And what did he tell you?

A. Right as he opened his mouth, his radio and I believe my radio all sounded at the same time from our separate dispatches the EMS or the medics need Fire Code 3 to 36th and Park. And he essentially told me -- he said that they taken a patient and left the scene.

Q. Do you recall if he told you why they left the scene?

A. No, ma'am, I don't -- umm, I don't recall. Correction. I'm sorry, I misspoke. He said we moved -- they moved either to get away or to move away from the crowd.

Q. Okay. And I will bring up for you Government's Exhibit 7, which is a clip from Officer Kueng's body-worn camera. This clip begins at 20:33:46.

(Video recording played)

Q. Okay. And that clip ended at 20:34. Is that an accurate depiction of your exchange with that officer?

1 A. Yes, ma'am.

2 Q. Did you leave Cup Foods after that?

3 A. Yes, ma'am.

4 Q. Did you encounter Officer Thao again?

5 A. I encountered an officer. I did not recognize or I did
6 not know who he was.

7 Q. Was it the same person who you encountered on the way
8 in?

9 A. Frankly, I wasn't paying attention. At that point we
10 were moving, but we did -- he did speak to us.

11 Q. I'm going to show you a clip from Government's
12 Exhibit 9, and this is from Mr. Thao's body-worn camera,
13 beginning at 20:34:08.

14 (Video recording played)

15 Q. And that clip ends at 20:34:56. Captain Norton, do you
16 recall when you learned that the patient was in cardiac
17 arrest?

18 A. I believe when I was exiting the store.

19 Q. And then did you, in fact, relocate to Park and 36th?

20 A. Yes, ma'am.

21 Q. And I'm going to go back to that map, Government's
22 Exhibit 43. On the left side of the screen, do you see the
23 indicator of an ambulance there?

24 A. Yes, ma'am.

25 Q. Is that an accurate depiction of where the ambulance was

1 stopped?

2 A. On the street level, yes.

3 Q. Do you recall about how long it took you to get there?

4 A. I believe we pulled out at right around 20:35 and we
5 were at the ambulance by 20:37, I believe.

6 Q. What did you do when you arrived at the ambulance?

7 A. My partner and I got off of the fire truck. We had
8 parked behind. We entered the side door of the ambulance
9 and then we -- well, I saw what was happening and then we
10 jumped in to help.

11 Q. And which partner jumped in with you?

12 A. Firefighter Hall.

13 Q. Who was in the ambulance when you got in?

14 A. There were two paramedics working. There was a police
15 officer to my left on the bench seat and then there was a
16 victim on the cot.

17 Q. And sitting here today, do you know who that officer
18 was?

19 A. The police officer?

20 Q. Yes.

21 A. I believe it was Officer Lane.

22 Q. At the time did you know who it was?

23 A. No, ma'am.

24 Q. After you got in the ambulance, did Officer Lane leave?

25 A. I walked in. I looked at what we had, and I essentially

1 kind of replaced him and took over ventilations and hooked
2 up the oxygen. And within a minute I believe he was gone --
3 or less than a minute I believe he was gone.

4 Q. And so entering the ambulance is the first time you saw
5 this patient?

6 A. Yes, ma'am.

7 Q. And sitting here today, do you know the patient's name?

8 A. Yes, ma'am.

9 Q. And what is the patient's name?

10 A. It was Mr. George Floyd.

11 Q. And did you know it at the time?

12 A. No, ma'am.

13 Q. Can you please explain for the jury Mr. Floyd's
14 condition when you got into the ambulance.

15 A. I can describe what I witnessed. Is that what you are
16 asking?

17 Q. What his condition was when you got in.

18 A. We walked in and there was an unresponsive male face up
19 on the cot.

20 There was an airway, an advanced airway of some
21 sort, inserted into his throat, which meant he was
22 unresponsive and had no gag reflect.

23 There was a bag valve mask, ventilation -- an
24 oxygen delivery device that was affixed to that. The oxygen
25 was not yet at that point hooked up.

1 And then there was the LUCAS compression device,
2 which is a pneumatic automated CPR device or compression
3 device and that -- you can't use that on someone who is not
4 unresponsive or, frankly, dead.

5 Q. So you said that you took over providing respiration for
6 Mr. Floyd?

7 A. Yes, ma'am.

8 Q. Okay. I'm going to show you an image from Government
9 Exhibit 5, which is from Mr. Lane's body-worn camera at
10 20:37:26. And can you just explain for the jury who you see
11 in this image and what -- the treatment that's being
12 provided to Mr. Floyd.

13 A. Yes, ma'am. I believe it's Paramedic Derek Smith,
14 center standing up. At Mr. Floyd's head, that's Paramedic
15 Seth Bravinder. I am to the right. That's my hand on the
16 BVM. And the knee of the fire turnout pants belongs to
17 Firefighter Hall.

18 Q. Now, aside from -- you said that the LUCAS device was
19 going and that there had been an airway put in place. While
20 you were parked there at Park and 36th, what other treatment
21 of Mr. Floyd did you either observe or participate in?

22 A. Well, at that point it's the paramedics' show. They --
23 so I -- again, once I cleared Officer Lane, I took over the
24 breathing and I attached the tube for the oxygen delivery to
25 go for the BVM.

1 Once Officer Lane left, my partner, Firefighter
2 Hall, sat down and she started assisting the paramedics with
3 getting IV setups. We basically just were there in support
4 of them. They got a second IV going.

5 They delivered medications for cardiac to kind of
6 offset a cardiac arrest. At one point they got the -- they
7 already had their defibrillation pads in place. I believe
8 they got a 12 lead going at one point, so they checked for
9 electrical activity. At one point there was -- it was
10 indicated for a shock. We did shock him once.

11 We did several pulse checks between 36th and Park
12 when we departed and when we arrived at the stab. room at
13 Hennepin County Medical and there was never -- never
14 regained a pulse.

15 So my partner and I were just there in support of
16 the paramedics.

17 Q. At any time that you were with Mr. Floyd, was he
18 breathing on his own?

19 A. No, ma'am.

20 Q. And you mentioned Mr. Floyd's pulse being checked on the
21 way to the hospital. Given that the jury has seen that he
22 was hooked up to this LUCAS device, how did you go about
23 doing those pulse checks?

24 A. We were able to check his left wrist and then also his
25 carotid at the neck.

1 Q. Okay. At times did you turn off the LUCAS to check his
2 pulse and see if it was -- if he had any independent rhythm?

3 A. No. We paused it. We don't turn it off. We paused it.

4 Q. You paused it. Thank you.

5 And I know you mentioned that at one point they
6 thought they may have seen some sort of rhythm. Other than
7 that, at any time that you were with Mr. Floyd did he have a
8 pulse?

9 A. Not to my knowledge.

10 Q. And did that shock improve Mr. Floyd's condition?

11 A. It did not.

12 Q. Were you able to learn from the paramedics what had
13 happened to Mr. Floyd?

14 A. No, ma'am.

15 Q. What happened upon arrival at HCMC?

16 A. We prepared to transfer the cot and the patient from the
17 ambulance into the ER, so we got a mobile oxygen device, et
18 cetera, and we rode into the stab. room and I was continuing
19 to provide ventilations for him until relieved by hospital
20 staff.

21 Q. Where did you go after you left the hospital?

22 A. I had sent our fire rig back to the scene while we were
23 working on Mr. Floyd at 36th and Park, and so there was a
24 little bit of a delay from when they returned to Cup Foods
25 or 38th and Chicago to check on Firefighter Hansen before

1 they got down to pick us up at 8th and Chicago -- or 8th and
2 Park, actually, and then from there we went to our duty
3 deputy, Fire Station 1 downtown.

4 Q. Did you provide a report about what you had observed to
5 anyone that night?

6 A. Yes, ma'am.

7 Q. To whom did you make a report?

8 A. I went directly to our duty deputy and reported that we
9 been on a call, there was a death in police custody, and
10 that I was concerned there was -- that I wanted her to
11 notify supervisors. And then also that there was an
12 off-duty firefighter who was a witness and I was concerned
13 for her.

14 And then I returned to our station and I wrote up
15 essentially that in formal reports and sent them through
16 channels to my battalion chief and then to the fire chief.

17 Q. And is it routine for a fire captain to make an
18 in-person report to the deputy chief of the Minneapolis Fire
19 Department?

20 A. Not routine, but not unheard of.

21 Q. About how many times do you think you have done that in
22 your career?

23 A. I'm a bit of an anomaly. I've -- I was working within
24 the notion of immediate information in terms of our chain of
25 command. So I was not breaking any rules while doing that.

1 Q. Okay.

2 A. I'm sorry. And it felt that it was timely, and so I
3 felt that was more -- it was more important to notify her
4 right away and then I followed up with proper communication.

5 Q. And based on what you observed that evening and your
6 20-plus years of experience, was it a medically sound
7 decision by the paramedics to stop and provide care to
8 Mr. Floyd nearby rather than going directly to the hospital?

9 A. Yes, ma'am. Had my crew arrived first, we would have
10 started CPR and resuscitation attempts right there on the
11 street and so -- because the more -- we didn't know what the
12 cause of his death was, the more we can do to provide oxygen
13 and ventilation and compression to get the blood flowing and
14 then for the medics to provide medications to counteract the
15 fatal effects of a body not breathing, that's the best
16 chance someone has to recover from an incident like that.

17 Q. And now I'm asking you specifically about the
18 paramedics' decision to relocate to 36th and Park rather
19 than driving straight from Cup Foods to the hospital. In
20 your 20-plus years of experience, was that a medically sound
21 decision for Mr. Floyd's well-being?

22 A. I believe that's -- I think that's a two-part question.

23 Q. Okay.

24 A. I think if they felt the need to relocate, that is the
25 decision they made. I believe they conferred with one of

1 the police officers.

2 Ideally, we would have been there already and they
3 would have had at least two and then the rest of my crew
4 could have joined, so four people with skills and experience
5 to provide BLS and ALS care for Mr. Floyd right away. And
6 providing for him immediately, given how long he had been
7 down, was the best bet to get him -- give him a shot at
8 coming back.

9 Q. Did you contact a supervisor to express your approval of
10 the paramedics' work with respect to Mr. Floyd?

11 A. Ma'am, I did.

12 MS. SERTICH: Your Honor, may I have one moment,
13 please?

14 THE COURT: Certainly.

15 (Pause)

16 MS. SERTICH: Nothing further on direct, Your
17 Honor.

18 THE COURT: Thank you.

19 Mr. Gray, cross-examination.

20 MR. GRAY: Exhibit 5, the one you just used.

21 (Counsel confer)

22 MR. GRAY: I don't need it.

23 CROSS-EXAMINATION

24 BY MR. GRAY:

25 Q. Do you remember when there was a photo up there of you

1 and your partner and the two paramedics in the ambulance; do
2 you remember that?

3 A. Yes, sir.

4 Q. And that photo was taken by Tom Lane, by his body
5 camera; is that right?

6 A. I believe so.

7 Q. Well, Tom Lane is right over there (indicating). Take a
8 look at him. Was that the guy that was in the ambulance?

9 A. I believe so.

10 Q. Okay.

11 MR. GRAY: That's all I have. Thank you.

12 THE COURT: Thank you.

13 Mr. Paule.

14 CROSS-EXAMINATION

15 BY MR. ROBERT PAULE:

16 Q. Good afternoon, Captain Norton.

17 A. Good afternoon, sir.

18 Q. You and I have never met before, have we?

19 A. I don't believe so.

20 Q. Now, Captain Norton, just a few questions.

21 You indicated that you had spoke to a police
22 officer at the scene initially when you got out, who you
23 somehow identified as my client. You indicated that he
24 seemed confused while you were there; is that correct?

25 A. No, sir. He expressed confusion.

1 Q. When you talked to him, he explained that they wanted
2 EMS to do a transport, correct?

3 A. Yes.

4 Q. What did he say about the person that he wanted to have
5 transported?

6 A. I believe he said he was high.

7 Q. Okay. And what does that mean to you, Captain?

8 A. It can mean any number of things, sir.

9 Q. What are some of those?

10 A. It can mean someone is -- with the opioid epidemic, we
11 have lots of people who are high and they have respiratory
12 failure. With meth or cocaine or crack, it's someone who is
13 agitated.

14 Q. All those things are drug related, aren't they?

15 A. Yes, sir.

16 Q. And when you returned out of the store -- well, let me
17 back up.

18 When you went into Cup Foods you ran into a police
19 officer, who you identified as Officer Kueng; is that
20 correct?

21 A. Yes, sir.

22 Q. You could see that on the video that was played to you,
23 could you not?

24 A. I could see -- I had his perspective on me, but I was
25 told that that was Officer Kueng, yes, sir.

1 Q. Yes, that's what I'm referring to.

2 A. Yes.

3 Q. And did he tell you where to go, to where the ambulance
4 was?

5 A. I believe he said to 40th initially or that they pulled
6 several blocks away.

7 Q. Okay. And he used the word "40th," though, didn't he?

8 A. I believe he did.

9 Q. And do you know where HCMC is located vis-à-vis Cup
10 Foods, which direction?

11 A. Yes, I do.

12 Q. Tell the jury, please.

13 A. It would be north.

14 Q. And which way would 40th Street be from Cup Foods?

15 A. Two blocks south.

16 Q. So that would be the opposite way from HCMC, correct?

17 A. It would.

18 Q. And when you came out and you spoke to Officer Thao the
19 second time, he actually directed you to 36th and Park,
20 correct?

21 A. Yes, sir, as did the radios, yes.

22 Q. That's where the ambulance was located, was it not?

23 A. Yes, sir.

24 Q. Okay. Now, you've talked about some of the training
25 you've received as a firefighter and throughout your career.

1 You've received training on something called
2 excited delirium, have you not?

3 A. Could you clarify?

4 Q. Sure. Do you recall meeting with three state court
5 prosecutors on March 8th of 2021?

6 A. Like a virtual meeting?

7 Q. I'm not sure, but these were state court prosecutors and
8 there was a BCA agent present as well, correct?

9 A. Yes, sir.

10 Q. Okay. I wasn't there, was I?

11 A. I don't believe so, since I'm having trouble remembering
12 which one it was. I apologize.

13 Q. I'm imminently forgettable.

14 But you spoke to them about some things about
15 excited delirium, did you not?

16 MS. SERTICH: Objection, Your Honor. Relevance.

17 THE COURT: Overruled.

18 THE WITNESS: I -- yes, I -- I'm sorry. If
19 there's a transcript that says we spoke about excited
20 delirium, then I'm not challenging you, sir.

21 BY MR. ROBERT PAULE:

22 Q. I don't have a transcript, but I do have --

23 MR. PAULE: And for reference, counsel, it is
24 Bates 00058054. Specific page reference would be 00058049.

25 BY MR. PAULE:

1 Q. Have you ever seen a copy of the report the Bureau of
2 Criminal Apprehension wrote about their discussion with you?
3 It's not up on the screen.

4 A. Oh, sorry. From this March incident?

5 Q. Your meeting in March with the state court prosecutors.

6 A. No, sir, I don't believe I have.

7 Q. Would it in some manner refresh your recollection about
8 what you discussed if you were to see a portion of it?

9 A. Well, clearly because I'm having trouble remembering,
10 but I'm not sure what the -- or what you are asking, sir.

11 Q. Fair enough.

12 MR. PAULE: Your Honor, for my edification, would
13 the court like me to approach him to give him --

14 THE COURT: Please do.

15 MR. ROBERT PAULE: Thank you. And again it's
16 00058059. May I approach the witness?

17 THE COURT: You may.

18 BY MR. ROBERT PAULE:

19 Q. And, Captain, please take all the time you need to look
20 at that report. I take it you haven't seen it before and I
21 don't want to surprise you.

22 A. Thank you.

23 MS. SERTICH: Your Honor, while Captain Norton
24 reviews, I'm going to object on the grounds that this
25 exceeds the scope of the direct examination.

1 THE COURT: It's overruled.

2 MS. SERTICH: Your Honor, can we have a sidebar,
3 please?

4 THE COURT: No thank you. I think we need to deal
5 with what we have here first.

6 THE WITNESS: Yes, sir. I've read what you've got
7 here.

8 BY MR. ROBERT PAULE:

9 Q. And, Captain, just so that I'm clear, does reading what
10 I handed you, does that help refresh your recollection about
11 that meeting with the state court prosecutors?

12 A. Yes. It's -- yes.

13 Q. And I don't mean to step --

14 THE COURT: Captain, would you remove your mask.
15 It's hard to understand people when you have them on.

16 THE WITNESS: Oh. I apologize, sir.

17 BY MR. ROBERT PAULE:

18 Q. I appreciate you putting it on for me, though, I do.

19 But does reading that document refresh your
20 recollection about that meeting with the state court
21 prosecutors?

22 A. It does, sir.

23 Q. You did discuss excited delirium with them, did you not?

24 A. Yes.

25 Q. And you indicated that you had received training as a

1 firefighter on this condition excited delirium, correct?

2 MS. SERTICH: Objection. Hearsay.

3 THE COURT: It's overruled.

4 THE WITNESS: This is a summary, not quite a
5 preeses [phonetic]. But I said that as part of our medical
6 ongoing education we have -- we'd had a unit on excited
7 delirium, yes.

8 BY MR. ROBERT PAULE:

9 Q. Are you familiar as you sit here today with that term,
10 what that means?

11 A. I'm familiar with both the term and then how it has
12 been -- how it gets applied sometimes, yes, sir.

13 Q. Have you ever been in a situation where you've seen
14 someone who you believe is in that condition?

15 A. I have.

16 Q. Okay. Have you ever been present when paramedics have
17 been dealing with a person who is in that particular
18 condition?

19 A. Well, sir, it is a reactive -- my experience is it is
20 someone goes into or it is a condition where someone is
21 being restrained. It is -- someone doesn't walk down the
22 street in excited delirium. That's never what I've seen,
23 no, sir. So it is always a byproduct of someone being
24 restrained.

25 Q. So you're understanding of this is it's not a

1 combination of other factors, it actually results from being
2 restrained?

3 A. Among other things, yes, sir.

4 Q. What other things would there be, sir?

5 A. It depends. And I'm not a medical expert. However, I
6 do know that I believe either AMA or JMA just had a lengthy
7 discussion and they are no longer using excited delirium as
8 a viable term for these sort of situations.

9 Q. But you've seen those situations yourself, haven't you?

10 A. Yes, sir.

11 Q. And you've received training on them?

12 MS. SERTICH: Your Honor, objection.

13 THE WITNESS: I would like you to --

14 THE COURT: Excuse me. There's an objection.

15 MS. SERTICH: May we have a sidebar, Your Honor?

16 THE COURT: Yes.

17 **(At sidebar)**

18 THE COURT: Proceed.

19 MS. SERTICH: Thank you, Your Honor.

20 The witness has just indicated that he does not
21 have medical training on this and that he does not believe,
22 based on what he does know, that this is a condition that's
23 recognized by some medical authorities that he referenced.
24 So I don't believe it's proper to question this witness on
25 this topic any longer.

1 MR. ROBERT PAULE: Your Honor, Robert Paule in
2 response. He's testified that he has received training on
3 this, that it is a condition, and in his experience he's
4 actually dealt with people who are in this condition.

5 THE COURT: The objection is overruled. Let's
6 continue.

7 **(In open court)**

8 BY MR. ROBERT PAULE:

9 Q. Again, I apologize. I can't recall where I was. In
10 fairness to you, sir, could I ask our court reporter to
11 please read back my last question?

12 (Requested portion read back)

13 MR. ROBERT PAULE: Thank you. That at least
14 orients me.

15 THE WITNESS: I apologize. I'm all over the
16 place. But go ahead.

17 BY MR. ROBERT PAULE:

18 Q. I'm right there with you. But just so this jury knows,
19 you, as a medical firefighter, you've received training with
20 about this condition excited delirium, correct?

21 A. Sir, respectfully, what I'm trying to clarify is the
22 topic has been used in one of our continuing education
23 modules as something to be aware of.

24 There has never been any clear agreement or never
25 any hard-fast rule about what it is and really that whether

1 or not it's actually solid science. So that is the root of
2 my -- just struggling with what you are asking.

3 Q. I guess you answered my question, though. You have
4 received training on it, correct?

5 A. We've received train -- yes, we've had -- yes we've had
6 informational training.

7 Q. And I believe what you told the state court prosecutors
8 on March 8th was that there was no protocols in your
9 department about how to deal with this, correct?

10 MS. SERTICH: Objection. Hearsay.

11 THE COURT: It's overruled.

12 THE WITNESS: Right. Because it is not a medical
13 condition, so I can't look and say that person has excited
14 delirium, I know how to treat this, that, or the other, yes,
15 sir.

16 BY MR. ROBERT PAULE:

17 Q. So what you are telling me is you've received training
18 on something that you believe -- even though the department
19 is giving this training, they don't believe it exists?

20 A. No, sir. It's that it's a -- it has been described as a
21 condition that is basically a byproduct of other things, and
22 so it's a situation to be aware of and so we were given
23 awareness-level training.

24 Q. Okay. And when you say a product of other things, what
25 things were you trained on?

1 A. Well, that's -- and that's one of the issues with the
2 phrase "excited delirium," is that it gets used as
3 essentially as a catchall for anyone who is agitated for any
4 of several reasons or anyone who is struggling against
5 restraints and becomes excited and then irrational. I know
6 from the textbook definitions, you know, they do say that it
7 can be a mental issue, it can be a chemical issue, but
8 that's -- we're not -- I don't know.

9 Q. Right, but the things you are referring to are either a
10 mental health of some sort or chemicals, which means
11 presumably illegal drugs, correct?

12 A. I don't presume that and it is not either/or.

13 Q. Okay. Could be a combination, could it not?

14 A. Well, that's one option, yes, sir.

15 Q. Okay. And you, yourself, have seen paramedics sedate
16 people who are suspected to be in this condition, correct?

17 MS. SERTICH: Objection, Your Honor. Can we have
18 a sidebar, please?

19 THE COURT: No. I'm going to overrule those. If
20 the witness has seen it or not is the question. It's either
21 "yes" or "no."

22 THE WITNESS: I've seen people be sedated, yes,
23 sir.

24 BY MR. ROBERT PAULE:

25 Q. By paramedics?

1 A. Yes, sir.

2 Q. Who are suspected to be in a condition like this?

3 A. What is "like this"? You need to define -- that's what
4 my point is. There is no -- you need to give me a
5 definition of what I would be witnessing if I were seeing
6 someone in excited delirium, because they don't say I'm
7 going to treat excited delirium with a sedative, sir.

8 Q. And I understand that totally.

9 But you've seen people be sedated by paramedics,
10 correct?

11 A. Yes, sir, I have.

12 Q. What were the circumstances predating that sedation that
13 you saw, sir?

14 A. Everything from a badly broken leg, to a psychotic
15 episode, to overstimulation by drugs, by prescribed meds
16 that went wrong, mental breaks, diabetic.

17 Q. All right. Thank you very much, Captain. I have no
18 further questions.

19 A. Thank you, sir. Do you want your --

20 Q. Yes, I would. Thank you.

21 A. Yes. Take care.

22 THE COURT: Mr. Plunkett.

23 CROSS-EXAMINATION

24 BY MR. PLUNKETT:

25 Q. Good afternoon, sir.

1 A. I've got both good morning and good afternoon. Yes,
2 sir. How are you?

3 Q. I'm sorry about that.

4 A. No, it's not you.

5 Q. I'm good. And how are you?

6 A. Good. Thank you.

7 Q. Good. I have very few questions for you, which must be
8 a relief.

9 A. Depends what the questions are.

10 Q. Well, they will be easy, I think you will find.

11 So I just want to revisit something you testified
12 about, and I think at the time you were testifying about it
13 they were showing you that sheet that has all the times
14 about when dispatches occur. So I would just like to set
15 things up so you know what I'm talking about. Do you know
16 what I'm talking about?

17 A. The one we looked at this morning? Yes, sir.

18 Q. Okay. So it sounds to me like, in your professional
19 parlance, when somebody says, "I need EMS," that's you?

20 A. It depends, sir, what the context is.

21 Q. When on the radio they say, "EMS Code 2."

22 A. Yes. I -- yes.

23 Q. That's -- I shouldn't say "you," but you are the fire
24 department as you sit here today, you can appreciate. Fair?

25 A. Yes, sir. It depends who is asking for it.

1 Q. Police.

2 A. It can be -- well, sir, that depends. It depends on if
3 they specify what they need us for, because EMS as a
4 catchall is paramedics --

5 Q. Yeah.

6 A. -- and fire together, yes, sir.

7 Q. Correct. EMS -- "I need EMS" is I need you?

8 A. Not solely the fire department, yes.

9 Q. Okay. "I need the fire department" -- and I apologize.
10 When I say "you" --

11 A. No, no, no.

12 Q. -- I do mean the fire department.

13 A. Yes, sir.

14 Q. And it's just generally understood that when I say "I
15 need EMS," they're anticipating a fire response because your
16 department is better located for quicker responses?

17 A. Sir, it depends what they need us for and if it's -- it
18 depends, because one should specify what the need is.

19 Q. If you say "I need EMS," you are asking for emergency
20 medical services?

21 A. Yes, sir, and that's paramedics and fire.

22 Q. Both of you?

23 A. Yes.

24 Q. Okay. It's not just you?

25 A. No, sir.

1 Q. It's not just paramedics?

2 A. This is why they -- one needs to follow up with
3 information. Because if they need firefighters to lift
4 somebody, they need firefighters to open a door, they need
5 paramedics to transfer, those are all things that -- so your
6 question is broad, sir.

7 Q. It is broad, but when somebody says, "I need EMS," it's
8 not your job to figure out what they need, you just go, you
9 are dispatched?

10 A. Thank you. Yes.

11 Q. Okay. And then you go; fair?

12 A. Yes, sir.

13 Q. Okay. You talked about checking a wrist pulse. Is that
14 called a radial pulse?

15 A. It would be, yes.

16 Q. Okay.

17 A. Or it could be, yes, sir.

18 Q. I think that's all it can be, isn't it?

19 A. Yes.

20 Q. Okay.

21 A. I'm sorry. I thought you were asking where I can check
22 the pulse. I misunderstood the question.

23 Q. No. I'm sorry. Radial pulse --

24 A. A pulse at --

25 Q. You said wrist -- I'm going to have to apologize to the

1 court reporter because we're stepping over each other. I'm
2 going to try to work on that and do a better job.

3 And then you said then I checked a carotid pulse,
4 correct?

5 A. I did say that, yes.

6 Q. And the reason you -- carotid is on the neck?

7 A. Yes, sir.

8 Q. And the reason you do that is because that's the best
9 pulse?

10 A. It's the one arguably closest to the heart, yes, sir.

11 Q. And so if you can't find it on the ankle or the wrist,
12 you'd want to -- I better check the carotid because it's
13 closest to the heart, correct?

14 A. Yeah, I seldom check an ankle pulse, but essentially
15 yes.

16 Q. Okay. In this case, and I'm not trying to be cute with
17 you or mix you up, didn't find one on the wrist, so you
18 check the carotid or the neck, correct?

19 A. I might have actually checked them both at the same
20 time, but yes.

21 Q. Okay. But if you can't find it on the wrist, you go for
22 the carotid, isn't that correct, because that's your
23 training?

24 A. Right.

25 Q. Okay. And so if you're down farther from the neck and

1 you are not able to reach the neck, but your partner is up
2 there by the neck, you'd say check a carotid pulse, correct?

3 MS. SERTICH: Objection. Speculation.

4 THE COURT: Sustained.

5 MR. PLUNKETT: Fair enough. That means you can't
6 answer it.

7 No further questions, Your Honor.

8 THE COURT: Thank you.

9 Ms. Sertich.

10 She may have some more. I don't know.

11 THE WITNESS: My day is free.

12 MS. SERTICH: I have nothing further for this
13 witness, Your Honor.

14 THE COURT: Okay.

15 MR. GRAY: Your Honor, may I reopen my cross for
16 one question?

17 THE COURT: One question.

18 MR. GRAY: All right. That was unfair to the
19 witness.

20 MS. SERTICH: The government objects, Your Honor.

21 THE COURT: We'll permit one question.

22 MR. GRAY: I'm not used to these masks. He said,
23 I believe -- I would like to have my client stand up and
24 take his mask off and see if he can recognize him then from
25 being in the ambulance.

1 Can you stand up, Tom?

2 FURTHER CROSS-EXAMINATION

3 BY MR. GRAY:

4 Q. Take a look at him.

5 A. I have no recollection between this man and the man in
6 the ambulance. I barely looked at him. I especially did
7 not look at his face when I walked into the ambulance, sir.

8 Q. Okay. Was he a tall fellow?

9 A. We were all sitting down -- or he was sitting down and I
10 was --

11 Q. He was sitting down with the body-worn camera on him?

12 A. Well, when I walked in, he was sitting down and then I
13 took over and I was focusing on the patient.

14 THE COURT: You've overdone your one question.

15 MR. GRAY: Yes. All right. Thanks.

16 THE COURT: Everybody sit down.

17 Okay. We are all done. You may step down.

18 THE WITNESS: Thank you, sir.

19 Thank you, all.

20 MS. SERTICH: Your Honor, can I have a moment to
21 confer with defense counsel?

22 THE COURT: Certainly.

23 (Counsel confer)

24 MS. SERTICH: Your Honor, we'll have to have a
25 sidebar to address a couple of issues with the government's

1 next witness.

2 THE COURT: Okay.

3 **(At sidebar)**

4 MS. SERTICH: Your Honor, the government's next
5 witness is Genevieve Hansen, the firefighter who was a
6 bystander witness on the scene.

7 Ms. Hansen has indicated on a number of occasions
8 that she is unable to view the on-the-street video of this
9 incident or listen to her 911 call without becoming
10 extremely emotional. This was before Your Honor entered any
11 motions -- any orders about witnesses becoming emotional or
12 before the defense made a motion on that issue.

13 And so the government's proposal is to play her
14 video for the jury either before she enters the courtroom,
15 because she took a video on her cell phone, or to play that
16 video at another time with an agent or something along those
17 lines.

18 Same thing for her 911 call, although Mr. Gray has
19 also objected to the 911 call as hearsay. The government
20 believes it is not hearsay based on both the present sense
21 impression exception and the excited utterance exception.

22 MR. GRAY: May I respond on the 911 call?

23 THE COURT: Go ahead.

24 MR. GRAY: Well, it wasn't a true 911 call. It
25 was after the law enforcement left. The incident had

1 already happened. She's calling up 911, but it's not
2 because of the 911 -- because of the incident. She's
3 calling after the fact. So it's just pure hearsay.

4 In addition to that, there's an opinion -- as I
5 remember it, there's an opinion of hers in there that's
6 unfair. So that's why I objected, Your Honor.

7 MR. ROBERT PAULE: Your Honor, Robert Paule. I'd
8 like to also object to that. I would note that in her
9 statement she indicated that she made this call not to get
10 911 to the scene, but to document what she had seen. So
11 it's not an excited utterance. It's not a typical 911 call.
12 She's trying to make a record of something.

13 Secondly, with regard to the issue about some of
14 the videos, I would note that there are enough other
15 witnesses who were present and there are other witnesses who
16 they could get this particular evidence in through, that
17 they don't need to call her for that purpose. And so if
18 they don't want us to impeach her, they shouldn't call her.
19 They can simply get the evidence of the video in through
20 other mechanisms.

21 MS. SERTICH: Your Honor, on the 911 call, the
22 call was made within two minutes of the ambulance departing.
23 She is very clearly distressed in the recording, and she is
24 reporting what happened, as anyone does, during a 911 call.
25 The government has cited that case law in its trial brief.

1 As to Ms. Hansen, she can be impeached, to the
2 extent defense counsel wants to do that. What I am
3 informing the court of is if they try to show her a video,
4 it is going to make her emotional, which I know is what this
5 court is trying to avoid with witnesses in this case.

6 THE COURT: Okay. Counsel, we'll try to keep this
7 as short as we can.

8 First of all, I have not reviewed in any detail --
9 I've been aware that there was a 911 call, but I just have
10 not been aware of what's in it. At an appropriate time I
11 can become aware of that. And I don't think that call is
12 necessary with this witness other than just to advise the
13 world that she did make a call, period.

14 Then as it relates to the video itself, whether
15 it's duplicative, cumulative, and all the rest of that
16 stuff, I don't want to necessarily make a ruling on that at
17 this moment, but I would suggest very strongly that you just
18 put her on the stand and have her testify like a witness
19 does testify rather than using the prop of a video.

20 MS. SERTICH: Yes. Thank you, Your Honor. To be
21 clear, I may show her a couple of clips from that Milestone
22 view just to orient her in terms of placement that are very
23 short.

24 And in addition to that, my understanding of your
25 ruling right now is that while you may not think its

1 necessary, the government isn't precluded from any -- the
2 exhibit is already in evidence and the defense has
3 stipulated to it, but between that and the 911 call, those
4 are issues we can have for another day?

5 THE COURT: That's right.

6 MS. SERTICH: Understood, Your Honor.

7 **(In open court)**

8 MS. SERTICH: The government calls Genevieve
9 Hansen.

10 THE COURT: Ms. Hansen, if you would stop there
11 and raise your right hand to be sworn.

12 GENEVIEVE HANSEN,
13 called on behalf of the government, was duly sworn, was
14 examined and testified as follows:

15 THE COURT: If you'd take the witness stand,
16 please. And remove your mask, speak directly into the
17 microphone. And I assume Hansen is spelled H-A-N-S-O-N?

18 THE WITNESS: E-N.

19 THE COURT: Okay. Proceed, counsel.

20 MS. SERTICH: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. SERTICH:

23 Q. Good afternoon, Ms. Hansen.

24 A. Hi there.

25 Q. In what city do you live?

1 A. Minneapolis, Minnesota.

2 Q. And how old are you?

3 A. 27.

4 Q. Where are you employed?

5 A. I'm a firefighter for the City of Minneapolis.

6 Q. How long have been a Minneapolis firefighter?

7 A. Three years.

8 Q. So back in May of 2020, how long had you been a
9 firefighter?

10 A. I was -- I had been on the streets for like about two,
11 give or take.

12 Q. Okay. In May of 2020 were you still considered a rookie
13 firefighter?

14 A. Yes.

15 Q. Can you explain that for the jury.

16 A. I -- you're still in your probationary period, so they
17 keep a close eye on how you perform your job and you're
18 still learning on the job.

19 Q. And is there a test that you take after a period of time
20 that allows you to move on from being a rookie?

21 A. Yes.

22 Q. Had you taken it by that time?

23 A. It got pushed off because of COVID, but yes.

24 Q. And is there -- are rookies treated differently than
25 folks who are no longer rookies at the Minneapolis Fire

1 Department?

2 A. Yes, definitely.

3 Q. In what way?

4 A. You know, you don't want to say too much, just kind of
5 put your head down and do a lot of cleaning and be right
6 there with anything your captain needs.

7 Q. Can you describe your duties as a firefighter for
8 Minneapolis.

9 A. My shifts are 24 hours. We stay at the station and when
10 we get a call, we respond to structure fires, medical calls,
11 car accidents, a lot of things we respond to.

12 Q. Can you describe the training you received to become a
13 firefighter, starting at the beginning of that process and
14 working your way forward.

15 A. I did a Pathways Program where I got my EMT. And then
16 in the academy I went through EMT again, just with everybody
17 else that hadn't done it. And then we do Firefighter I,
18 Firefighter II, and hazmat ops.

19 Q. So how long was that initial EMT training that you did?

20 A. The course that we did for Minneapolis Fire Department
21 was about a month.

22 Q. How about the one you did before that?

23 A. That one was more thorough, so I would say -- I think we
24 did that one in two or three months.

25 Q. And when you say "the academy," what academy are you

1 referring to?

2 A. So we have the Pathways Academy that was before, and
3 then the Minneapolis Fire Department Academy.

4 Q. How long was the Minneapolis Fire Academy in total?

5 A. Four months.

6 Q. And then did you say you had to have some sort of
7 national certification or test?

8 A. Mm-hmm. I have -- yeah, we have national tests for all
9 of those certifications separately.

10 Q. And then you mentioned, like, Firefighter I and
11 Firefighter II. Is that more about the firefighter side of
12 your job than the medical side of your job?

13 A. Yeah, completely, mm-hmm.

14 Q. And before you were an EMT, had you been CPR certified?

15 A. Mm-hmm. I have been a lifeguard and I did Red Cross
16 babysitting certification a few times when I was a kid too.

17 Q. Now, you talked about some of the different kinds of
18 calls that you go on as a firefighter. What are the most
19 common types of calls that you respond to?

20 A. I would say overdoses or mental health crisis -- based
21 on mental health crises.

22 Q. So those are on the medical side of things as opposed to
23 the firefighter?

24 A. Mm-hmm.

25 Q. I'm just going to ask you, for the court reporter, if

1 you can say "yes" instead of --

2 A. Oh. Yes. Sorry.

3 Q. And can you explain why the fire department responds to
4 so many calls for medical emergencies.

5 A. Sorry. Say it one more time.

6 Q. Can you explain why the fire department responds to so
7 many calls for medical emergencies.

8 A. Oh. Well, we have our box that we respond in and
9 depending on what the medical emergency is, we show up to
10 assist the paramedics and that's what we're there for.

11 Sometimes the -- sometimes we get there quite a
12 bit more ahead of time than the paramedics, so there are
13 things that we can do too, because there are less medics in
14 the city.

15 Q. So why do you oftentimes get there more quickly than
16 EMS?

17 A. Well, we stay in the box that we respond to and then,
18 like I said, there's just -- there are more fire stations
19 than there are medic rigs around the city.

20 Q. So what type of support do you provide for EMS or for
21 paramedics when you go on runs?

22 A. We're just a lot -- we're extra hands. They can kind of
23 direct us to get any equipment or bags or things that they
24 need, carrying patients, doing CPR while they administer
25 drugs, whatever they need.

1 Q. And can you also start those types of things if they
2 aren't there yet?

3 A. Oh, yeah. We do on a regular basis.

4 Q. Have you been on calls involving cardiac arrests before?

5 A. Yes.

6 Q. So have you provided medical aid to someone without a
7 pulse on calls with the Minneapolis Fire Department?

8 A. Yes.

9 Q. And do you respond to calls on occasion where the
10 Minneapolis Police Department officers are already on the
11 scene?

12 A. Unless we are waiting for them to clear a scene for our
13 safety, I would say most of the time -- it's rare that I've
14 been to calls where they're there first.

15 Q. And, Ms. Hansen, with your training and experience, how
16 is it that you determine whether a person needs CPR?

17 A. They'd be [indiscernible].

18 COURT REPORTER: Could you say that again?

19 THE WITNESS: They'd be pulseless.

20 BY MS. SERTICH:

21 Q. Are you familiar with something called the ABCs for
22 assessing someone who is nonresponsive?

23 A. Yeah. That's just like a quick assessment: airway,
24 breathing, and circulation.

25 Q. How do you check on each of those things?

1 A. An airway is we're just making sure that it's, like,
2 open and clear. And are they breathing? Are they breathing
3 normally? And then on circulation, we are checking for a
4 pulse or excessive traumatic bleeding.

5 Q. And according to your training, what are some of the
6 signs that a person might be having trouble breathing?

7 A. You can see in their body language that it seems
8 labored. They may have, like, a little -- a discoloration
9 to their skin, maybe more blue or pale, or just kind of --
10 they may be hunched over. Their natural instinct would be
11 to be in a tripod position.

12 Q. Is there anything that you can tell by hearing as to
13 whether someone's having trouble breathing?

14 A. Yeah. It depends on why they're having trouble
15 breathing, but you may hear just like a restricted airway,
16 kind of more of a wheezing sound or something like that.

17 Q. And what is it that you are trained to do if someone is
18 not breathing?

19 A. Is not breathing at all? We would -- they would be in
20 cardiac arrest eventually. So we -- if -- we would monitor
21 for pulses. I mean, if it's an overdose, we could
22 administer Narcan right away, but we would be going in with
23 CPR compressions right away.

24 Q. Ms. Hansen, what made you want to become a firefighter?

25 A. I grew up in Minneapolis and so I -- you know, fell in

1 love with the city, obviously. And my parents have both,
2 you know, been in healthcare work, so they care for
3 vulnerable people and I think it rubbed off.

4 Q. What do you like about being a firefighter?

5 A. I like moving fast. I like working as a team. I like
6 feeling helpful and productive.

7 Q. And did you have to swear an oath when you became a
8 firefighter?

9 A. Mm-hmm. Yes.

10 Q. So I'd like to talk about the evening of May 25th, 2020.

11 A. Okay.

12 Q. What were you doing that night?

13 A. I was on a walk.

14 Q. Do you recall if you had worked that day?

15 A. I think -- I believe I got off that morning.

16 Q. And at that time did you live in the neighborhood near
17 Cup Foods?

18 A. Yes.

19 Q. About how far away from Cup Foods?

20 A. I think maybe a couple miles.

21 Q. And so were you going on a walk generally in your
22 neighborhood?

23 A. Mm-hmm, yeah.

24 Q. Let me ask you this. Is that neighborhood known to be
25 particularly high crime for Minneapolis?

1 MR. ROBERT PAULE: Objection. Foundation.

2 THE COURT: Oh, I'll overrule it. She's really
3 laying foundation. Continue.

4 THE WITNESS: I think that -- I don't know exactly
5 how to answer that except for that, like, there are places
6 in Minneapolis that I would be nervous to walk around at
7 dusk, but I think the community in that neighborhood
8 particularly, like, really like looks out for each other, so
9 I almost feel safer in that community than most others in
10 Minneapolis.

11 BY MS. SERTICH:

12 Q. And at least on that night you were going for a walk --

13 A. Yeah.

14 Q. -- by yourself at dusk?

15 A. Yeah.

16 Q. At some point did you get closer to Cup Foods?

17 A. Mm-hmm, yes.

18 Q. And I'm going to show you a map that's been admitted as
19 Government's Exhibit 1. Does this area look familiar to
20 you?

21 A. Yeah.

22 Q. Okay. On what street did you approach Cup Foods?

23 A. I was on 38th and I kind of made, like, sort of a bigger
24 loop and came behind the officers.

25 Q. Well, let me ask you this. Can you just draw a line

1 where you entered on this screen and where you were walking
2 when you first came into this area.

3 A. Yeah. I think something like that (indicating).

4 Q. All right. You went the whole way around. So it looks
5 like you came west on 38th Street, crossed over 38th Street
6 to the other side, crossed Chicago, and then crossed 38th
7 again over to that area around the Speedway; is that right?

8 A. That's right.

9 Q. Okay. And as you got closer to Cup Foods, did you
10 notice anything?

11 A. I saw the lights, which can mean anything, and then I
12 got a little closer and a woman was yelling that they are
13 killing him. And so I kind of made my way around just to
14 kind of, like, get an eye of what was going on and assess
15 and -- yeah.

16 Q. I'm going to back you up just a little bit. When you
17 say you saw the lights, do you mean from squad cars?

18 A. Oh. Yes, but at that point I didn't know that they were
19 police or -- I was expecting it to be my coworkers.

20 Q. Firefighters?

21 A. Mm-hmm.

22 Q. Okay. And can you just put a mark on the screen there
23 where the woman was that you said you encountered who was
24 yelling.

25 A. She maybe was around here (indicating).

1 Q. Okay. So sort of at the corner there. Is that by the
2 Dragon Wok?

3 A. Yes.

4 Q. Okay. And then you said you continued around until you
5 were standing over by the Speedway; is that right?

6 A. That's right.

7 Q. Can you describe for me and for the jurors here what you
8 saw in the direction of Cup Foods.

9 A. I saw a squad car and three officers with a man
10 underneath them and an officer facing Cup Foods, and there
11 was a small group of people there.

12 Q. Okay. And I should have asked you this. Could you see
13 that before you got over by the Speedway or was it when
14 you --

15 A. No, I couldn't.

16 Q. Okay. So at some point you said you approached the
17 officers from behind?

18 A. Mm-hmm, yes.

19 Q. And what made you decide to approach the officers?

20 A. I -- it was just alarming, the amount of people that
21 were on top of one person not moving and handcuffed, so I --
22 and I also noticed that there was no medics or fire there,
23 so there was no medical attention available. And judging by
24 him not -- George not seeming to be moving or anything, I
25 was concerned that he may have needed help.

1 Q. And you said, "George." At the time did you know who
2 was the person underneath the officers?

3 A. No.

4 Q. Okay. And just to orient the jury to your position, I'm
5 going to show you a clip from what's been admitted as
6 Government's Exhibit 14, which is a video from up across the
7 street that jurors know as the Milestone video. Okay. And
8 this is a clip that is going to begin at 8:25:19.

9 (Video recording played)

10 Q. Okay. Ms. Hansen, do you see yourself on the screen
11 right now?

12 A. Yes.

13 Q. Okay. Can you make a little circle or a mark where you
14 see yourself.

15 A. (Indicating.)

16 Q. And, for the record, the video was stopped at 8:25:37.

17 THE COURT: And then, counsel, I think that
18 completes what's been previously discussed.

19 BY MS. SERTICH:

20 Q. Once you got to that position, did you speak to an
21 officer who you were standing near there?

22 A. Yes.

23 Q. In your training have you learned that as a firefighter
24 who is an EMT that you are required to stop and provide
25 medical assistance if you see someone who needs it?

1 A. Yes.

2 MR. GRAY: Excuse me. Objection. Counsel is
3 leading. May I --

4 THE COURT: You are leading, counsel.

5 MR. GRAY: May I be on the speaker here for just a
6 minute?

7 THE COURT: You mean on the sidebar?

8 MR. GRAY: Sidebar.

9 THE COURT: Okay.

10 **(At sidebar)**

11 MR. GRAY: Judge, can you hear me?

12 THE COURT: I can hear you.

13 MR. GRAY: Every question she asks, she shakes her
14 head yes when she wants a yes. I'm sure it's maybe not
15 intentional, but I don't want to object to that in front of
16 the jury. But she's going like this (indicating) for a yes,
17 and that's totally improper and that's my other part of the
18 objection. Thank you.

19 THE COURT: Okay. I think it's heard and we'll do
20 the best we can.

21 Proceed.

22 **(In open court)**

23 THE COURT: Continue.

24 BY MS. SERTICH:

25 Q. Ms. Hansen, what are you -- as a firefighter who is an

1 EMT, what are you trained to see if you see -- do if you see
2 someone in medical distress?

3 A. I would identify myself as a first responder and let
4 them know that I can offer them medical attention if they
5 need it or want it. And then if they do, I would do an
6 assessment of what's going on and what they may need and
7 probably call 911.

8 Q. And you said that once you got to that position you saw
9 in the clip, that you spoke to Officer Thao?

10 A. Yes.

11 Q. At the time did you know his name?

12 A. No.

13 Q. Okay. And sitting here today you know that?

14 A. Yes.

15 Q. And what did you do when you went up to him? What did
16 you say to him?

17 A. I said that I'm a Minneapolis firefighter. I don't
18 know -- I haven't watched the video, so I can't remember
19 exactly.

20 Q. Did you have any work ID on you at that time?

21 A. No. I didn't have my wallet at all.

22 Q. As you were standing out in the street talking to
23 Mr. Thao, did you look down at what was happening with
24 Mr. Floyd?

25 A. Yes.

1 Q. And what did you observe?

2 A. I observed -- from that point that I was on the
3 sidewalk? I could see --

4 Q. I'm sorry. I'm still talking about when you are in the
5 street. Could you see --

6 A. Well, either way, once I come around to facing
7 Officer Thao, I could only see George Floyd's head being
8 pressed down and I could see Chauvin on top of him, and
9 that's kind of the vantage I had.

10 Q. Did Officer Thao say anything to you when you came up to
11 him?

12 A. Yeah. He said something like, "If you're really a
13 Minneapolis firefighter, then you'd know better than to get
14 involved."

15 Q. Did he tell you to do anything?

16 A. Get on the sidewalk.

17 Q. And did you get on the sidewalk?

18 A. Mm-hmm, yes.

19 Q. Now, that's where you said you could observe Mr. Floyd;
20 is that right?

21 A. Mm-hmm, yes.

22 Q. Did you notice that there were other people standing
23 there on the curb?

24 A. Yes.

25 Q. And were they saying anything?

1 A. Yeah, everyone was saying something, but I don't really
2 remember because I -- I was addressing Thao and saying what
3 I thought I needed to say to get him help.

4 Q. So you were -- you heard people saying things you don't
5 know what sitting here today?

6 A. Correct. Yeah.

7 Q. So once you were standing on the sidewalk, you said that
8 you could see Mr. Thao and Mr. Chauvin with his knee on
9 Mr. Floyd. Did you recognize either of these officers?

10 A. Yeah. I actually -- I was on a call with Chauvin and
11 Kueng I think the day before or a couple days before.

12 Q. Did you know them by name?

13 A. No.

14 Q. And outside of that one call, did you know them at all?

15 A. No.

16 Q. Could you see any part of the -- once you were on the
17 sidewalk, could you see any part of the other two officers
18 who you'd seen when you were coming up from behind?

19 A. Not as I recall.

20 Q. Based on your training, what did you observe about the
21 condition of Mr. Floyd?

22 A. He -- his face -- in my memory, his face looked really
23 swollen and smashed to the ground. He wasn't moving. He
24 was definitely unconscious.

25 And I was -- at the time I was immediately alarmed

1 and concerned because I saw fluid kind of coming from the
2 general body, which I thought may be a sign that he had lost
3 his -- you know, emptied his bladder, which is a sign of
4 death or near death.

5 Q. And was there a time at which your recollection was that
6 you could see Mr. Floyd's face when you were on the opposite
7 side of the street at Speedway?

8 A. Yeah. I don't -- I think it's one of those mind tricks,
9 because I would have sworn that's what I saw when I was on
10 the other side of the street, but it's not.

11 Q. Okay. And, similarly, did you previously think that you
12 saw four officers on Mr. Floyd on the ground?

13 A. Yes.

14 Q. Okay. And sitting here today, do you know that
15 that's --

16 A. I know that that's not true, mm-hmm.

17 Q. And I think you've already mentioned you haven't --
18 other than these far away videos, you haven't watched the
19 videos to refresh your memory on that?

20 A. Correct.

21 Q. And what's the reason you haven't done that?

22 MR. ROBERT PAULE: Objection. Relevance.

23 THE COURT: Sustained.

24 BY MS. SERTICH:

25 Q. Do you recall whether you heard Mr. Floyd vocalizing at

1 all after you arrived?

2 A. No, I don't recall.

3 Q. And based on your training, what were your concerns
4 about his medical needs at that point?

5 A. Well, when we start to become concerned about breathing
6 and airway and that the situation doesn't improve, then
7 we'll be worried about whether that person has a pulse or
8 they also probably should be receiving CPR.

9 Q. And you said that Mr. Chauvin's position was that he had
10 his neck [sic] on Mr. Floyd. Did you see him moving at all
11 while he, Mr. Chauvin, while he was in that position?

12 A. I mean, it really seemed like he was just kind of
13 leaning in.

14 Q. So based -- you just testified that your concern would
15 be you want to do CPR?

16 A. I would want to assess him, but more than likely I was
17 assuming that's what needed to be done.

18 Q. And what would be the steps that you would take in that
19 situation, based on your training?

20 A. So -- well, we know that his airway was, you know, being
21 crushed, so I --

22 MR. ROBERT PAULE: Objection. That's a
23 misstatement. May we sidebar?

24 MR. GRAY: It's also speculation.

25 THE COURT: Yeah, I'm going to sustain. I don't

1 know that the evidence supports it. I'm going to sustain
2 the objection to that answer and instruct the jury to
3 disregard.

4 MR. GRAY: [Inaudible].

5 COURT REPORTER: Could you say that again?

6 MR. GRAY: Oh, I'm sorry. Move that what she did
7 say stricken so the jury doesn't --

8 THE COURT: That's what I said. The jury should
9 disregard it.

10 BY MS. SERTICH:

11 Q. So, Ms. Hansen, I'll just ask you another question.

12 A. Okay.

13 Q. Based on your training, what would be the steps that you
14 would take?

15 A. So I would check to see if he was breathing and I
16 would -- if I found that he -- if he wasn't breathing, I
17 would check for a pulse. And if he didn't have a pulse, I
18 would --

19 MR. PLUNKETT: Objection, Your Honor. Relevance.

20 THE COURT: It's overruled.

21 THE WITNESS: I would have directed somebody to
22 call 911, someone to go look for an AED at the gas station.
23 I would have flipped him over and I would have checked his
24 airway, considered any spinal cord injuries, and then
25 checked for a pulse and started CPR, waiting for backup.

1 BY MS. SERTICH:

2 Q. And when you say check for an AED over at Speedway, what
3 are you talking about?

4 A. Automatic external defibrillator. It would just be pads
5 to check for a rhythm and potentially give a shock if it was
6 advised.

7 Q. And based on your training, what is the purpose of
8 performing chest compressions?

9 A. We're just trying to circulate the blood, help with the
10 heart rhythm to get a heart rhythm back.

11 Q. Are you familiar with Fire Department Station 17?

12 A. Yes.

13 Q. About how far is that from Cup Foods?

14 A. Just a couple blocks, a few blocks down.

15 Q. When you were standing there on the curb, did you make
16 requests of the officers?

17 A. Yeah. I wanted them to check for a pulse.

18 Q. What response did you receive?

19 MR. GRAY: Object to that as vague, Your Honor.
20 What response [inaudible].

21 THE COURT: That's what she asked, is what
22 response did she receive.

23 THE WITNESS: I don't recall, but what I -- I
24 don't recall what anybody was saying, but I do know that
25 they never checked one or if they did, they didn't let me

1 know.

2 BY MS. SERTICH:

3 Q. Did you see or hear anything to make you understand that
4 Mr. Thao heard what you were requesting?

5 A. I don't remember what he said exactly, but I do know
6 that he was responding to me directly, so I know for sure he
7 could hear me.

8 Q. Okay. So what did you see or hear that made you think
9 that he was responding to you?

10 A. Eye contact, directly responding to something I was
11 saying. I mean, I knew that he was communicating with me.
12 I just can't exactly recall what he was -- what exactly was
13 said.

14 Q. And did he respond to you directly when you were asking
15 for a pulse check?

16 A. Yes.

17 Q. At some point did Mr. Thao tell you he was busy dealing
18 with you?

19 A. Mm-hmm.

20 Q. Is that a "yes"?

21 A. Yes.

22 Q. Based on your observation there on the sidewalk, was
23 Mr. Thao busy doing anything with you or the other folks on
24 the curb?

25 MR. ROBERT PAULE: Objection. Vague. Calls for

1 speculation.

2 THE COURT: Sustained.

3 BY MS. SERTICH:

4 Q. Based on your observation, did Mr. Thao seem scared or
5 threatened by anyone on the curb?

6 MR. ROBERT PAULE: Objection. Vague. Calls for
7 speculation. May we have a sidebar.

8 THE COURT. Sustained.

9 MR. ROBERT PAULE: Your Honor, excuse me. May we
10 sidebar?

11 THE COURT: No thank you.

12 BY MS. SERTICH:

13 Q. Did you hear Mr. Thao say anything about drug use?

14 A. Yeah. I heard -- I do remember him saying something
15 about, "This is why you shouldn't use drugs" or something
16 like that.

17 Q. And did you notice whether any of the other officers
18 besides Mr. Thao, had a response to what you were saying?

19 A. I don't.

20 Q. Did you ever see any of the officers taking a pulse?

21 A. I didn't.

22 Q. In your training and experience, someone who is CPR
23 certified, if you cannot find a person's pulse, what do you
24 do next?

25 A. I would start compressions.

1 Q. And in your training and experience, is time of the
2 essence in that situation?

3 A. Absolutely.

4 Q. During the time that you were on the curb, did you
5 become more assertive?

6 A. Yes.

7 Q. Did that include raising your voice?

8 A. Yes.

9 Q. Did that include swearing?

10 A. Yes.

11 Q. And why were you getting louder or swearing?

12 A. Because I was recognizing that this was a time-sensitive
13 thing. He needed help and he wasn't getting it, and I felt
14 like I was just trying everything.

15 Q. Did you ever step off of the curb?

16 A. Yes.

17 Q. And to make clear your position to the jury, I'm going
18 to show you a brief clip from Government Exhibit 14, which,
19 again, is that faraway Milestone video. And this is
20 beginning at 8:26:08.

21 (Video recording played)

22 Q. And is that you in the bottom left-hand corner?

23 A. Yes.

24 Q. Did you go off screen there?

25 A. Yes.

1 THE COURT: Thank you, counsel.

2 MS. SERTICH: The clip ends at 8:26:32.

3 BY MS. SERTICH:

4 Q. Did you see there that as you stepped off the curb, you
5 were going off to the side?

6 A. Yes.

7 Q. Do you recall why you were stepping off to the side?

8 A. No.

9 Q. Why did you step off of the curb at that point?

10 A. I just felt like I was just -- I just wanted to get in
11 there.

12 Q. Did Mr. Thao tell you to get back on the sidewalk?

13 A. Yep.

14 Q. Now, you've just testified that you raised your voice.
15 Did you ever threaten the officers?

16 A. About reporting them? Probably.

17 Q. Did you ever physically threaten the officers?

18 A. No.

19 Q. Did you see anyone else physically threaten the
20 officers?

21 A. No.

22 Q. Do you recall telling the officers that they were on
23 another level?

24 A. Mm-hmm. Yes.

25 Q. What did you mean by that?

1 A. They -- I mean, I've been to calls where people have
2 been restrained, where they're -- a lot like -- so many
3 different situations, but I've never seen such, like,
4 determination or -- I don't know. It didn't seem like a
5 normal scene whatsoever.

6 Q. Were you present when EMS arrived?

7 A. Yes.

8 Q. What did you observe when EMS arrived?

9 A. I was really relieved because we work so closely with
10 HCMC medics, so I kind of didn't really watch what they were
11 doing so much. I knew that they were going to do a load and
12 go, and so I could see that out of kind of the corner of my
13 eye.

14 Q. So you said you knew they were going to do a load and
15 go?

16 A. Yeah.

17 Q. What does that mean?

18 A. Load and go is something that we do all the time, just
19 getting the patient up and into the ambulance quickly, more
20 often than not just kind of driving down the block or
21 something. It's like -- it's respectful to the community to
22 not have to see whatever medical interventions we need to
23 perform.

24 Q. At any point while you were on the scene, did you see
25 Mr. Floyd gain consciousness?

1 A. No.

2 Q. Were you prevented from treating Mr. Floyd?

3 A. Yes.

4 Q. And given your training and experience, could you have
5 made a difference in that moment?

6 A. I believe so.

7 MR. ROBERT PAULE: Objection.

8 THE COURT: Sustained.

9 MR. ROBERT PAULE: Ask to disregard --

10 THE COURT: Sustained.

11 BY MS. SERTICH:

12 Q. Based on your training, did you believe Mr. Floyd had a
13 right to receive medical care?

14 A. Absolutely.

15 MR. GRAY: Object to that, Your Honor. Lack of
16 foundation. Legal question.

17 THE COURT: It is a legal question. I sustain.

18 MR. GRAY: Move the answer be stricken.

19 THE COURT: There isn't any answer.

20 BY MS. SERTICH:

21 Q. So we talked about this a little bit. You were on scene
22 before EMS arrived. And then did fire rescue arrive later?

23 A. Yeah, and the paramedics were off scene already.

24 Q. And in your experience, is that unusual?

25 A. Yes.

1 Q. Why?

2 MR. GRAY: Object to that as not relevant, why
3 it's unusual.

4 THE COURT: No, I'll overrule. You may answer.

5 THE WITNESS: Because when there's proper
6 communication through dispatch, we -- first of all,
7 especially because Station 17 is where it is, we would have
8 absolutely gotten there first. But it was -- I've never
9 been to a call that was in that order. And the fire got
10 there and had no idea where the paramedics were is another
11 sign of not communicating through dispatch.

12 BY MS. SERTICH:

13 Q. And in your experience, is there a situation where you
14 would be with someone in cardiac arrest where you would just
15 wait for paramedics to arrive?

16 A. Without helping?

17 Q. Yeah.

18 A. No. No, I would -- no, we would intervene.

19 Q. So we talked a little bit about those other people
20 standing on the curb near you. Were you afraid of any of
21 those people standing around you?

22 A. No.

23 MR. ROBERT PAULE: Objection. Relevance, Your
24 Honor.

25 THE COURT: Oh, I'll overrule. It will stand.

1 BY MS. SERTICH:

2 Q. Were you carrying your cell phone with you that evening?

3 A. Yes.

4 Q. At some point did you start recording what was happening
5 to Mr. Floyd on your cell phone?

6 A. Yes.

7 Q. Why did you do that?

8 A. Because there's proof, then, of what happened.

9 Q. And did you mostly focus on recording Mr. Thao?

10 A. Yeah.

11 Q. Why is that?

12 A. Because he was in the way of George Floyd's medical
13 attention because he was interacting with the group.

14 Q. And so for identification purposes, I'm just going to
15 show you an image from Government's Exhibit 19.

16 A. Mm-hmm.

17 Q. Do you recognize this as an image from your recording?

18 A. Yes.

19 Q. At some point did you make a 911 call regarding this
20 incident?

21 A. Yes.

22 Q. Do you recall when that happened in terms of when EMS
23 left the scene?

24 A. I think it was before fire got there or maybe during
25 fire being there. I'm not quite sure.

1 Q. Why did you call 911?

2 A. Because, I mean, if that was the police, then someone
3 needed to know what happened and the scene was -- at that
4 point I was -- you know, if the police had done what they
5 did there, I didn't feel comfortable with the safety of that
6 corner anymore.

7 Q. What do you mean by that?

8 A. I didn't trust those officers.

9 MR. GRAY: Judge, I move that be stricken from the
10 record.

11 THE COURT: Sustained.

12 MR. GRAY: Ask the jury to disregard it.

13 THE COURT: Disregard it.

14 BY MS. SERTICH:

15 Q. Did you feel like it was unsafe because of the
16 bystanders who were with you?

17 A. No. The --

18 Q. Okay. That's enough.

19 And during your call to 911, did you ask to speak
20 to a supervisor?

21 A. Yes.

22 Q. Did you ever actually speak to a supervisor?

23 A. No.

24 Q. Okay. Did something happen to end the call?

25 A. I believe that's when the -- when fire got there, but I

1 don't -- I'm not sure why the call -- exactly why the call
2 was ended.

3 Q. Fair enough.

4 So did some of your colleagues from fire arrive?

5 A. Yes.

6 Q. Who did you see?

7 A. Jeremy Norton was the captain and Jennifer Hall was his
8 firefighter.

9 Q. What happened when they arrived?

10 A. They were looking for a patient and they went into Cup
11 Foods, and I followed them in there and explained to them
12 what happened. And I think that at that point maybe they
13 were getting radio from dispatch about where the ambulance
14 was.

15 Q. After Mr. Floyd was taken away by EMS, did any of the
16 officers come to speak to you?

17 A. Yes.

18 Q. Do you remember which officer or officers?

19 A. I know Lane is the officer that, like, spoke to me
20 directly and there was one other.

21 Q. What did he say to you?

22 A. "Are you really a Minneapolis firefighter?" or something
23 like that and asked if I wanted to make a statement.

24 Q. Was there another man on the scene, an African-American
25 man wearing a hoodie that day?

1 A. Yes.

2 Q. At the time did you know that man's name?

3 A. No.

4 Q. Sitting here today, do you know it?

5 A. Yes.

6 Q. Okay. Is that Mr. Williams?

7 A. Yes.

8 Q. Did Mr. Lane offer for Mr. Williams to make a statement?

9 A. Yes.

10 Q. I'm just going to show you an exhibit from what's
11 been -- or I'm sorry, an image of what's been admitted as
12 Government's Exhibit 8 from Mr. Kueng's body-worn camera.

13 Is this an image of Mr. Lane speaking to you and
14 Mr. Williams, as you've described?

15 A. Yes.

16 Q. And this is at 20:51:29?

17 A. Yes.

18 Q. Can you just touch on the screen there where
19 Mr. Williams is.

20 A. (Indicating.)

21 Q. Did Officer Lane seem at all afraid of the people
22 standing on the sidewalk?

23 A. No.

24 MR. PLUNKETT: Objection. Speculation.

25 THE COURT: Sustained.

1 BY MS. SERTICH:

2 Q. Did Mr. Lane say or do anything to indicate fear of you
3 or Mr. Williams?

4 MR. PLUNKETT: Same objection, Your Honor.

5 THE COURT: Sustained.

6 BY MS. SERTICH:

7 Q. So you previously testified you were a rookie back in
8 May of 2020?

9 A. Yeah.

10 Q. And have you testified in other public hearings related
11 to this case?

12 A. Yes.

13 Q. As a firefighter, do you still respond to calls for
14 service where members of the Minneapolis Police Department
15 are on the scene?

16 MR. PLUNKETT: Object to this line of questions as
17 irrelevant.

18 THE COURT: I don't see the relevance of that,
19 counsel.

20 MS. SERTICH: Can we have a sidebar, Your Honor?

21 THE COURT: Sure. We're going to do better than
22 that. We're going to take an afternoon break.

23 Members of the jury, we're going to be in recess
24 for an afternoon break at this time. Again, please don't
25 discuss the case during the recess. We are in recess.

(Jury excused)

IN OPEN COURT

(JURY NOT PRESENT)

THE COURT: Counsel, what is the relevance of whether or not she responds to calls with Minneapolis Police Department?

MS. SERTICH: Your Honor, Ms. Hansen was a rookie firefighter at this time, and the government anticipates that she will talk about some of the ways she has been treated since she's provided public testimony on this case.

THE COURT: Okay. I sustain. I then sustain the objection. That's just not relevant to this case, how she's been treated. It has nothing to do with this lawsuit. I sustain the objection.

MS. SERTICH: Your Honor, the government believes this is --

THE COURT: No. I sustained the objection.
(Recess taken at 3:22 p.m.)

* * * * *

(3:38 p.m.)

IN OPEN COURT

(JURY PRESENT)

THE COURT: You may be seated.

Ms. Hansen, if you'd return, please.

You may proceed, Ms. Sertich.

1 MS. SERTICH: Thank you, Your Honor. I have no
2 further questions for Ms. Hansen at this time.

3 THE COURT: Okay. Who is up? Okay. Mr. Gray.

4 MR. GRAY: Yes, Your Honor. I thought somebody
5 else was.

6 CROSS-EXAMINATION

7 BY MR. GRAY:

8 Q. You remember testifying at a previous hearing, ma'am,
9 and telling under oath that you did not see --

10 MS. SERTICH: Objection. Hearsay.

11 MR. GRAY: It's under oath, Your Honor. It's
12 cross-examination.

13 THE COURT: I'm going to have to hear the
14 question. Go ahead.

15 BY MR. GRAY:

16 Q. All right. Do you remember telling under oath at
17 another hearing that all you could see when you were
18 standing up on the sidewalk filming were the top of the
19 heads of the junior officers, I believe you referred to
20 them?

21 A. I don't remember saying that.

22 Q. Okay. Would it -- do you agree that you said it?

23 A. I could believe that. They just weren't on my radar,
24 really.

25 Q. They weren't on your radar?

1 A. I may have been able to see small bits of their bodies,
2 but.

3 Q. Okay.

4 A. I believe it.

5 Q. So when you testified that nobody took the pulse of
6 George Floyd, you weren't able to see if the pulse was taken
7 on his wrist or his ankle, correct?

8 A. Yeah, I don't know if there was a pulse taken.

9 Q. And one other thing. You testified that you did meet
10 with ex-Officer Lane later after the fire truck left; is
11 that right?

12 A. I don't know if -- I mean, I think it was after the fire
13 truck left. Before or after.

14 Q. Okay. And you had a conversation with him?

15 A. Not really.

16 Q. What did you say that he -- he asked you something?

17 A. He asked me whether or not -- if I was really a
18 firefighter or "Is that you?" or something like that and "Do
19 you want to make a statement?"

20 Q. And what?

21 A. And "Do you want to make a statement?"

22 Q. Okay. Did he say, "Are you really a firefighter?" or
23 was he a gentleman about it?

24 A. I thought it was kind of condescending, but that's a
25 personal --

1 Q. Condescending? Well, let's play it.

2 MR. GRAY: Can we play that?

3 THE WITNESS: No.

4 THE COURT: No, let's not.

5 MR. GRAY: We can't play that?

6 THE WITNESS: No.

7 THE COURT: No, we don't need to.

8 MR. GRAY: All right. That's all I have.

9 THE COURT: Mr. Plunkett.

10 CROSS-EXAMINATION

11 BY MR. PLUNKETT:

12 Q. Hi there.

13 A. Hi.

14 Q. My name is Tom Plunkett.

15 A. Nice to meet you.

16 Q. It's nice to meet you too.

17 We haven't spoken before, have we?

18 A. I don't think so.

19 Q. I don't think we have. Actually, I know we haven't.

20 A. Okay.

21 Q. So I'm just going to ask you a few questions.

22 A. Okay.

23 Q. Show you complete respect. Show me the same. Fair?

24 A. Absolutely, mm-hmm.

25 Q. All right. You indicated that you had some kind of

1 visual, kind of spinning around, but what you reacted to is
2 what you saw on the other side of the vehicle?

3 A. Right.

4 Q. Okay. And you said something about you were concerned
5 about the fluid, and I get that.

6 A. Yeah.

7 Q. But we later found out that fluid was actually
8 air-conditioning fluid from the car?

9 A. Yes.

10 Q. Okay. Do you know -- you talked about some medical
11 stuff. Do you know what perfusion is?

12 A. I think that's when your blood moves through your body,
13 oxygenates and -- yeah.

14 Q. Right. So your heart is beating and the blood is moving
15 around?

16 A. Yeah.

17 Q. We agree.

18 And you check that by kind of giving a little
19 pinch to see if --

20 A. Yeah. There's blood flow, yeah.

21 Q. Capillary refill, is that what it's called?

22 A. Yeah. You're good.

23 Q. And so if a firefighter got there and he said, "I sense
24 perfusion," he would have sensed blood flow? Not the
25 firefighter. The paramedic. I'm sorry.

1 A. Well, we don't really check --

2 MS. SERTICH: Objection. Speculation.

3 MR. PLUNKETT: I'm going to withdraw the question,
4 Your Honor.

5 THE COURT: Okay. Thank you, because I was lost
6 on it.

7 Continue.

8 MR. PLUNKETT: Yeah. And that was my fault, Your
9 Honor. I said "firefighter" when I should have said
10 "paramedic." I got everyone confused.

11 THE WITNESS: Yeah.

12 BY MR. PLUNKETT:

13 Q. So when you take a pulse, you always want to go for the
14 carotid pulse; isn't that the one you want?

15 A. We -- I mean, we -- I go -- that's what I go for, but
16 you can check it on the wrist or groin or ankle.

17 Q. Yeah. Tibial posterior pulse on the ankle, brachial,
18 radial --

19 A. Yeah.

20 Q. -- carotid?

21 A. Yeah.

22 Q. Okay. But this is the best one and that's why you are
23 trained to go there?

24 A. Mm-hmm.

25 Q. And if somebody can't get a -- I'm not going to go

1 through them again. If you can't get a pulse at the ankle,
2 you check the carotid, correct?

3 A. Correct.

4 Q. You said something -- you talked about bad
5 communication. Do you remember those questions with
6 dispatch?

7 A. Yeah.

8 Q. And so if it's bad communication, we don't know who was
9 doing the bad communicating, do we?

10 A. No. I don't know.

11 Q. So we agree?

12 A. Yeah.

13 Q. So it could be the dispatch did it wrong too; isn't that
14 right?

15 A. I didn't have a radio.

16 Q. Okay. Fair enough. Short and simple.

17 A. Thank you.

18 MR. PLUNKETT: No further questions.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you.

21 Mr. Paule.

22 CROSS-EXAMINATION

23 BY MR. ROBERT PAULE:

24 Q. Good afternoon, Ms. Hansen. My name is Bob Paule. I've
25 never met you before, have I?

1 A. I don't believe so.

2 Q. All right. Good afternoon.

3 A. Hi there.

4 Q. Yes. Ms. Hansen, you indicated that you approached the
5 scene coming westbound down 38th Street; is that correct?

6 A. Correct.

7 Q. And what sort of drew your attention was you saw some
8 lights ahead of you sort of in the area where the squad car
9 was, correct?

10 A. Correct.

11 Q. And at that point you didn't know if it was a police or
12 a firefighter, some of your fellow coworkers, correct?

13 A. Correct.

14 Q. But you sort of walked up and once you heard the
15 yelling, you then crossed the street and I believe you said
16 you kind of circled the area to assess the situation?

17 A. Correct.

18 Q. Okay. And you indicated that once you were on sort of
19 the Speedway or the west side of Chicago, that's when you
20 came up and approached the scene, correct?

21 A. Correct.

22 Q. Okay. And I believe when you approached, can you tell
23 the jury how you came up vis-à-vis my client, Mr. Thao.

24 A. Mm-hmm.

25 Q. In other words, not to confuse you, did you come up the

1 way he was facing from behind? How did you do that?

2 A. I came -- I was on his left side. I obviously came from
3 behind him because he was facing the group of people. Not
4 too close. I didn't seem to startle him.

5 Q. Okay. And when you came up there, you came up because
6 you were concerned what you were seeing in front of you,
7 correct?

8 A. Correct.

9 Q. Now, did you see any of what led up to Mr. Floyd being
10 in the position he was?

11 A. No.

12 Q. Did you have any information about why the police were
13 acting in the manner that they were?

14 A. No.

15 Q. Okay. And when you got up to the scene, my client, you
16 talked to him. He basically commanded you to get on the
17 curb, correct?

18 A. Correct.

19 Q. He indicated something like "If you were really a
20 firefighter, you would know not to interfere with this,"
21 something to that effect?

22 A. "You would know better than to get involved."

23 Q. Okay. That's sort of the same thing, is it not?

24 A. I disagree, but there it is.

25 Q. Okay. Well, it's a free country.

1 A. Yep.

2 Q. But then you got up in a stance and you started asking
3 to check his pulse and became more insistent; is that
4 correct?

5 A. Correct.

6 Q. When you were saying that, did you have any idea what
7 the other two officers were doing that were out of your view
8 at that point?

9 A. No.

10 Q. And, again, you are just reacting to what you are
11 seeing, correct?

12 A. Correct.

13 Q. And, as Mr. Plunkett said, you thought that perhaps the
14 fluid in the street indicated his bladder had voided, a sign
15 that the person is not doing well, correct?

16 A. Correct.

17 Q. Okay. That's what you were responding to, was it not?

18 A. That was -- just the general scene. There was a lot
19 going on.

20 Q. Okay. And you testified that you were there when the
21 emergency medical people, I think I'll refer to as the
22 ambulance people showed up?

23 A. They're paramedics.

24 Q. Yes.

25 A. Yep.

1 Q. You were there when they showed up, correct?

2 A. Correct.

3 Q. And you discussed a load and go. You've seen that
4 before, correct?

5 A. Yep, we do it often.

6 Q. Okay. And did you just say you see it often?

7 A. Yeah. We do it all -- very frequently.

8 Q. Okay. And why do you do that?

9 A. To spare the public, especially if there's minors there,
10 from just seeing any medical interventions that they don't
11 need to see.

12 Q. Okay. And just by -- in terms of so the jury knows, you
13 actually met and spoke with agents from the FBI on May 28,
14 2020, did you not?

15 A. Right.

16 Q. And they had you give a recorded statement about what
17 you were observing on that day; is that correct?

18 A. Yeah.

19 Q. I didn't mean to confuse you. Poorly phrased question.
20 But the idea is you gave a recorded statement on May 28th
21 about the events of May 25th?

22 A. Yeah, that they recorded. Yes.

23 Q. Do you understand me now?

24 A. Yes.

25 Q. Okay. And did they ask you about the load and go?

1 A. I think so, yeah.

2 Q. Okay. Do you recall what you said?

3 A. I don't.

4 Q. Okay. In the transcript of the recording, I have down
5 that you stated, "That's what they're trained" --

6 MS. SERTICH: Objection, Your Honor. It should --

7 THE COURT: Sustained.

8 MS. SERTICH: -- be refreshed.

9 THE COURT: Sustained. You can refresh her
10 recollection by showing it to her.

11 MR. ROBERT PAULE: All right. May I approach the
12 witness?

13 THE COURT: You may.

14 MR. ROBERT PAULE: Thank you. And for counsel's
15 benefit, it's Bates 00002469.

16 May I approach the witness, Your Honor?

17 THE COURT: You may.

18 MR. ROBERT PAULE: Thank you.

19 BY MR. ROBERT PAULE:

20 Q. Just so you understand what's going on, Ms. Hansen, I'm
21 going to approach and hand you a document loaded to a
22 particular page. You will see probably some yellow
23 highlighting.

24 A. Yeah.

25 Q. That's the part, but take as much time as you would like

1 need to review so you can recall what you said.

2 A. No problem. Thank you.

3 Q. Does that refresh your recollection?

4 A. I don't remember saying that, but I see that I said
5 that, so.

6 Q. What did you tell the FBI on that tape?

7 A. I just said I don't remember, but I --

8 MS. SERTICH: Objection. Hearsay.

9 THE COURT: It's overruled.

10 THE WITNESS: I just said I don't remember, but I
11 can see that I said that.

12 BY MR. ROBERT PAULE:

13 Q. And what did you tell the FBI?

14 A. I told the FBI that a load and go is something that we
15 do on a regular basis.

16 MR. ROBERT PAULE: May I approach the witness,
17 Your Honor?

18 THE COURT: You may.

19 MR. ROBERT PAULE: And I think what I'm going to
20 do, with the court's permission, would be to publish on the
21 ELMO what the recording said, just to make sure that
22 Ms. Hansen understands.

23 THE WITNESS: I don't want to hear it.

24 MS. SERTICH: Objection, Your Honor. That's
25 hearsay and that's not the proper method of impeachment, to

1 publish it to the jury.

2 THE COURT: I'm not sure that I understand. What
3 do you -- are you going to put it on the ELMO?

4 MR. ROBERT PAULE: I would like to, with the
5 court's permission -- a transcript of what she actually said
6 because she's saying she doesn't remember what's recorded on
7 the transcript, Your Honor.

8 THE COURT: I'm not sure that's what she said. I
9 think she said she didn't remember today what she had said
10 back then. I don't know that she's denying --

11 THE WITNESS: I'm not denying --

12 MR. ROBERT PAULE: Excuse me. I'm trying not to
13 speak over anyone. I understand the court.

14 May I inquire?

15 THE COURT: You may.

16 BY MR. PAULE:

17 Q. What you said was is "A load and go is what they're
18 trained to do in a situation where it is not a safe scene";
19 isn't that correct?

20 A. Yeah. It was not safe for George Floyd.

21 Q. And now when you -- you testified earlier -- you
22 testified, in response to Ms. Sertich's question, that you
23 never made any threats to any of the officers; isn't that
24 correct?

25 A. I'm pretty sure I threatened to report them.

1 Q. Do you remember stating to my client, "You can find me
2 in the streets"?

3 A. Yeah, on the -- when you go on calls, we call that in
4 the streets, like I've been in the streets, working in the
5 streets for this amount of time. It's --

6 Q. Did you --

7 A. -- common lingo.

8 Q. Excuse me.

9 A. It's common lingo.

10 Q. Did you explain that to him?

11 A. No.

12 Q. And then, finally, do you remember when you spoke to the
13 FBI stating anything about whether you thought that Officer
14 Thao was aware of what was going on behind him?

15 A. I don't remember.

16 Q. Would it perhaps refresh your recollection to look at a
17 transcript of --

18 A. That would be nice, yeah. Thank you.

19 MR. ROBERT PAULE: And, counsel, Bates stamp
20 00002478 -- excuse me, 70 into the top of 00002471.

21 May I approach the witness, Your Honor?

22 THE COURT: You may.

23 BY MR. ROBERT PAULE:

24 Q. And, Ms. Hansen, just so you understand what's going on,
25 I'm going to show you a different part of your transcript

1 that was taken off the recording of the statement you gave
2 to the FBI on May 29th, 2020. All right? And, again, I've
3 got some nice yellow highlighter there.

4 A. Thank you. Thank you.

5 (Pause)

6 Okay.

7 Q. Does that refresh your recollection?

8 A. I don't remember saying it, but I see that I said it.

9 Q. Okay. And what did you say to the FBI on that date?

10 A. I didn't -- I had no idea what Thao understood, what he
11 knew about what was going on. I wasn't there where -- if
12 there was -- he was assigned to be in front of the group. I
13 don't know.

14 Q. Okay. Maybe I'll ask the question differently. Did you
15 tell the FBI on that date that you had no idea if Mr. Thao
16 had any idea what was going on behind his back?

17 A. I just don't -- I don't remember saying it, but if -- I
18 believe that this is true.

19 Q. Okay.

20 A. Okay?

21 Q. That's my question.

22 A. Great.

23 Q. All right. Thank you very much. I don't have any
24 further questions.

25 A. Thank you.

1 MR. ROBERT PAULE: May I approach just to retrieve
2 my transcript, Your Honor?

3 THE COURT: Sure.

4 MR. ROBERT PAULE: And I will put on my mask.

5 Thank you.

6 THE WITNESS: Thank you.

7 REDIRECT EXAMINATION

8 BY MS. SERTICH:

9 Q. Ms. Hansen, Mr. Gray asked you some questions about
10 whether you could see whether there were any pulse checks
11 being performed of Mr. Floyd, and you responded you didn't
12 know; is that right?

13 A. Right.

14 MR. GRAY: She said she couldn't see, Your Honor.

15 THE COURT: This is close enough.

16 BY MS. SERTICH:

17 Q. Okay. And you said that you respond to calls with the
18 MPD?

19 A. Yes.

20 Q. Okay. In your experience, if a pulse of someone was
21 taken and not found, what would happen?

22 MR. PLUNKETT: Objection. Speculation.
23 Relevance.

24 THE COURT: That is sustained.
25

1 BY MS. SERTICH:

2 Q. You also got a question from Mr. Paule where he asked
3 you if you heard Mr. Thao say that you should know better
4 than to get involved.

5 A. Yes.

6 Q. And you said you disagreed with that statement, that you
7 should have known better than --

8 A. Oh, I -- yeah, I disagree with that statement.

9 Q. Why do you disagree with that statement?

10 A. Because I have a duty to identify myself and offer
11 medical assistance when I see it's fit. And, also, it was
12 an unsafe scene for George Floyd, so I --

13 MR. ROBERT PAULE: I object to that. The last
14 part is not responsive.

15 THE COURT: The last part is not responsive. I
16 will sustain only as to the last part of the sentence.

17 BY MS. SERTICH:

18 Q. Mr. Paule also asked you some questions about what you
19 thought was concerning, and he questioned you about the fact
20 that you thought you saw urine coming from Mr. Floyd's body?

21 A. Yeah.

22 Q. And you testified that you now know that it wasn't
23 urine?

24 A. Oh, yeah, I do.

25 Q. Were there other things that concerned you besides what

1 you thought was urine on the pavement?

2 A. Besides being --

3 MR. PLUNKETT: Objection. Scope.

4 MS. SERTICH: Your Honor, Mr. Paule asked her if
5 that's what was concerning her, and I'm clarifying what was
6 concerning her.

7 THE COURT: Yeah, I'm going to overrule. I'll let
8 you -- let the witness answer.

9 THE WITNESS: Well, from before I approached the
10 sidewalk, I could see that there were three officers on one
11 cuffed man not moving. When I got onto the sidewalk, I then
12 realized he seemed unconscious. All those things are red
13 flags for me. And I could see how much pressure Chauvin was
14 putting on his neck. That's about it.

15 MS. SERTICH: I have nothing further at this time,
16 Your Honor.

17 THE COURT: Okay. Thank you very much.

18 Anything further?

19 MR. PLUNKETT: One question.

20 THE COURT: Mr. Plunkett.

21 REXCROSS-EXAMINATION

22 BY MR. PLUNKETT:

23 Q. Hello again.

24 A. Hi.

25 Q. I'm going to very briefly ask you a couple questions --

1 A. Okay.

2 Q. -- if that's okay, and it's only going to be questions.

3 A. Okay.

4 Q. I'm not showing you anything. Fair?

5 A. All right.

6 Q. You talked about that as a firefighter, as a medical
7 professional, that you have a duty to offer your care when
8 you see somebody in need?

9 A. Offer it, yes.

10 Q. Okay. And we're not going to look at anything, but your
11 offer of care is what's -- is captured on the video; isn't
12 that right?

13 A. I didn't really get the chance to --

14 Q. I'm going to just interrupt you. The video shows what
15 you said and did regarding --

16 A. Right.

17 Q. -- wanting to give care?

18 A. Correct.

19 Q. Okay. The other thing you said is that you had
20 concerns, and then when you got around to the other side of
21 the car and could see Mr. Floyd's face --

22 A. Yeah.

23 Q. -- that's when you realized this was truly a medical
24 issue, correct?

25 A. I don't think it was, like, the moment I saw his face,

1 but it --

2 Q. It took --

3 A. I don't know how specific you want me to be.

4 Q. And I shouldn't say "the moment," but once you got
5 around to the other side, you could see --

6 A. See everything going on.

7 Q. -- from that perspective that was the --

8 A. Lead -- everything leading up to that point --

9 Q. It all came --

10 A. -- is all part of the way I came to the conclusion that
11 help was needed.

12 Q. And you drew the conclusion on the other side of that
13 car?

14 A. By that time.

15 Q. Yeah. Thanks.

16 A. You bet.

17 THE COURT: Anything further?

18 MS. SERTICH: Nothing further, Your Honor. Thank
19 you.

20 THE COURT: Okay. Thank you very much. You may
21 step down.

22 MS. BELL: Your Honor, could we have a sidebar
23 briefly?

24 THE COURT: Sure.

25 MS. BELL: Thank you.

1 **(At sidebar)**

2 MS. BELL: I didn't want to say anything --

3 THE COURT: Excuse me. I've got to this so I can
4 hear. Okay. Go ahead.

5 MS. BELL: I didn't want to say anything in front
6 of the jury in case this was not your inclination, but I
7 don't have another short witness right now. So I'm
8 wondering if perhaps we should just end for the day since
9 it's a little after 4:00 or if you'd like to keep going.

10 THE COURT: That would be fine with me. We an
11 over time yesterday, so we'll cut it a little bit short
12 today.

13 MR. PLUNKETT: The only thing I'm going to ask,
14 Your Honor, is -- and I'm directing the question to Ms. Bell
15 through the court. Do we need to take a moment to put --
16 watch her video or are we not going to do that now that
17 she's gone?

18 THE COURT: I think we can pick that up at a later
19 time.

20 MR. PLUNKETT: Okay.

21 MS. BELL: Sure.

22 MR. PLUNKETT: This would be a good time -- well,
23 once the jury is out of the room, I just have another record
24 to make.

25 THE COURT: Sure. We will do it then.

1 MR. PLUNKETT: Thanks.

2 **(In open court)**

3 THE COURT: Members of the jury, there are a
4 couple of things going on here.

5 I've just been advised that the government does
6 not have a short witness to take -- that could come in and
7 be completed this afternoon. And we're running a little bit
8 after 4:00 and, quite frankly, we kept you kind of late
9 yesterday, so we're going to quit a little bit early today
10 for that reason.

11 There's also another unrelated matter that you
12 don't have to worry about, but there is an unrelated matter
13 that I need to deal with with the lawyers in the matter.
14 And so we're going to take that up and let you go home.

15 Come back at 9:30 tomorrow morning and with the
16 usual instructions of don't talk amongst yourselves about
17 it, don't talk with other people about it, don't read or
18 listen to or carry out personal investigations, and continue
19 to have a good night.

20 (Jury excused)

21 **IN OPEN COURT**

22 **(JURY NOT PRESENT)**

23 THE COURT: Counsel, I'm going to ask that we have
24 the white noise on for just a minute before we get into
25 other motions.

1 **(At sidebar)**

2 THE COURT: I don't know the reason that you asked
3 for this early recess or not, but we have been advised that
4 there may be a demonstration later this afternoon, and
5 getting the jury out of the building, frankly, is an
6 advisable thing to do. So whether you knew about it or not,
7 I thank you for it.

8 And I think with that, I don't see any reason to
9 leave the white noise on. We can hear your motion,
10 Mr. Plunkett.

11 **(In open court)**

12 THE COURT: Okay. Mr. Plunkett.

13 MR. PLUNKETT: Thank you, Your Honor.

14 I'm renewing my motion for a mistrial. And at
15 this point, Your Honor, I have to frankly say I believe that
16 we have gotten to the point where I can demonstrate
17 prejudice. I think I've been very candid that I've been
18 following up on records, conceding that I hadn't got to the
19 point where I could honestly tell the court that there's
20 prejudice, but I think we've crossed the Rubicon, if you
21 will.

22 And it's this pattern of questions that are
23 leading and in violation of the pretrial order. There was
24 some testimony, and Mr. Gray, I believe, objected to it, so
25 I didn't jump up and say I'm marking the record because it

1 had already been objected to. And the government had asked
2 a question that was -- I think it was what is the reason for
3 not watching the videos, and I thought that was a very
4 inappropriate question. I believe it was objected to and
5 sustained.

6 And then a legal question was later asked by the
7 government. And just for clarification, everything I'm
8 talking about is during the testimony of Ms. Hansen right
9 now. And the way that question was asked, the jury clearly
10 was given information that they shouldn't have.

11 And I'm not going to pound the table and say this
12 is intentional. I think we've all tried a lot of cases and
13 tensions run high and pressure gets, you know, on, but this
14 had been a real pattern.

15 And now with the specific information that was
16 solicited or provided, really, during Ms. Hansen's
17 testimony, it is my assertion that there is a real
18 prejudice, not just because of the pervasive nature of this
19 misconduct, but because the information that's now been put
20 out there for the jury. It's out there. There's a point
21 where we can't just tell the jury to disregard it.

22 There's a point where it makes us look like -- the
23 defense lawyers look like we're just a bunch of Johnny
24 Jump-Ups and objecting like mad. And I know that juries
25 don't like to see that sort of thing. It casts a dim light

1 on the defense, as though we're the ones that are covering
2 up or doing something wrong.

3 And I think that at this point there is prejudice
4 to all of the defendants. I think that it's also -- I hate
5 to call it intentional, but it's certainly -- because of the
6 pervasive nature of it, it doesn't appear to be isolated
7 incidents. It's people questioning off of prepared
8 examinations and then going back to the same questions later
9 that were objected to and sustained and taking another bite
10 at it, and not even doing it in a way that it's a different
11 question.

12 So I'm moving for a mistrial on those grounds.

13 MS. BELL: Your Honor, I honestly don't know what
14 Mr. Plunkett's second issue is. Can you -- you just said an
15 issue and I didn't understand what it was.

16 MR. PLUNKETT: There was a question that was
17 objected to by Mr. Gray as -- did I cut you off, LeeAnn?

18 MR. GRAY: Your Honor, can I be heard on that?

19 MS. BELL: No, I just -- can he clarify what he's
20 referring to first?

21 MR. GRAY: Yes.

22 MS. BELL: Thank you.

23 MR. GRAY: Just to back up a little bit, when I
24 was --

25 THE COURT: Just a minute.

1 MR. GRAY: I'm sorry.

2 THE COURT: I thought Mr. Plunkett was going to
3 respond and I'll hear -- when he gets done, I'll hear you
4 Mr. Gray.

5 MR. GRAY: Okay.

6 MR. PLUNKETT: Thank you, Your Honor. I think at
7 that point the government had asked a question that called
8 for a legal conclusion.

9 MS. BELL: What was the question is my question.

10 MR. PLUNKETT: Well, you know --

11 MR. GRAY: I've got the question. Should I give
12 the question, Your Honor?

13 THE COURT: Okay. Please do, Mr. Gray.

14 MR. GRAY: The prosecutor asked a learned health
15 provider did any of the officers that she saw provide
16 medical services. And I objected to the legal conclusion of
17 the witness and it's also part of the issue in the case, is
18 whether or not my client was deliberately indifferent about
19 medical services.

20 And we know that it was intentional because when I
21 on cross-examination asked the witness before this, well,
22 did you think that Mr. Lane was deliberately indifferent,
23 there was a jump-up over there, objection, legal, and you
24 sustained me. You sustained them.

25 So they can't say we didn't know medical services

1 was an issue because they knew that because they knew about
2 deliberate indifference. So I believe it was intentional.
3 I had to object. The judge told the jury not to regard it.

4 And it's getting a little annoying to have all
5 these objections. I don't know -- they're obviously all
6 experienced lawyers.

7 And that's all I have to say.

8 MS. BELL: Your Honor, it is an entirely different
9 thing to ask a jury if someone was deliberately indifferent,
10 which is an actual legal charge, than to ask someone a
11 factual question about whether or not they saw any officers
12 give any aid. That is a factual question --

13 MR. GRAY: Medical --

14 MR. PLUNKETT: If I may interject?

15 MS. BELL: Medical services --

16 (Simultaneous indiscernible crosstalk)

17 THE COURT: Counsel, counsel, counsel, counsel.

18 First of all, before anybody gets any farther in
19 this, we're going to let you -- you are getting a
20 transcript. We're going to let you look at an actual
21 transcript so we know what people are actually saying to
22 whom, when, where, and how.

23 If it then is appropriate to bring it to my
24 attention, bring it to my attention. If it's not, that's
25 fine, it won't be. But people just sitting and arguing back

1 and forth across here is just -- that's not going to work.

2 There are a couple of things that I will say, but
3 I -- gosh, all of you folks know me and you know me very
4 well. I really believe in trying to let lawyers try their
5 lawsuit; and to the degree that I can, I want to let that
6 happen.

7 I want to do a cautionary instruction on the
8 prosecution side now because you're going into your direct
9 now, but it's going to carry over if defense is involved in
10 direct, and that's to be very, very careful of continuing
11 leading questions. I think that's leading -- it's leading
12 us into some of the difficulties that we're dealing with.

13 Sometimes you have to lead the question, yes,
14 because you change the subject, you know, that kind of
15 thing. I understand all of that. Sometimes you have to ask
16 a leading question to bring a witness on track. I
17 understand all of that. But I am concerned about leading
18 questions being on an ongoing basis.

19 In the meantime, for the technical reason of it,
20 I'm going to deny the motion at this point on a mistrial and
21 caution to tell you, counsel, that you know and I know that
22 before we get into the mistrials, we're going to be into
23 very egregious territory, and I seriously doubt that we're
24 there. At this point I think that we just need to, frankly,
25 just be a little bit careful on both sides.

1 With all of that cautionary stuff, have a good
2 night everybody. You need it. People try lawsuits; they
3 get tired.

4 MS. BELL: Judge, are we back at 9:30? Is that
5 what you said to the jury?

6 THE COURT: 9:30, yeah.

7 MS. BELL: Thank you.

8 THE COURT: At 9:30, but if it turns out you need
9 me earlier, let me know.

10 (Court adjourned at 4:12 p.m., 01-26-2022.)

11 * * *

12 I, Renee A. Rogge, certify that the foregoing is a
13 correct transcript from the record of proceedings in the
14 above-entitled matter.

15 Certified by: /s/Renee A. Rogge
16 Renee A. Rogge, RMR-CRR

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